ROMANÆ HISTORIÆ ANTHOLOGIA RECOGNITA ET AUCTA.

AN
ENGLISH EXPOSITION
OF THE

ROMAN ANTIQUITIES:

Wherein many
ROMAN and ENGLISH Offices are parallel'd, and divers obſcure Phraſes explain'd.

For the uſe of *Abingdon* School.

Newly Reviſed and Enlarged by the Author.

LONDON,
Printed by *M. White*, for *R. Chiſwel* at the *Roſe* and *Crown* in St. *Pauls* Church-Yard, and *J. Wright* at the *Crown* on *Ludgate Hill*. 1689.

ROMAN
HISTORY
ANTHOLOGIA

ROMAN
ANTIQUITIES:

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1680

VIRO

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D. JOHANNI Young

SS. THEOLOGIÆ DOCTORI,
& Eccleſiæ WINTONIENSIS
Decano Ornatiſſimo

Εὐδαιμονίαν δίδωμι.

Vir Ornatiſſime,

NOn liberi quam libri pluribus exponi periculis ſolent, cum primum prodeant in lucem, utriſque pariter opus eſt tutelari aliquo numine obſtetricante. Hoc olim ſenſit anthologia hæc noſtra primum edita: idem ſentit eadem in hodierna duarum ſectionum, & capitulorum aliquot ſuperfœtatione. Nacta igitur ſecundas ſuas cogitationes te ambit patronum, qui facem aliquam mihi in his antiquitatibus obambulanti prætuliſti, & quem multum fuiſſe in ſtudiis meis promoven-

A 2 dis,

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vendis, palam, & sub dio prædico, videbis me aliquoties aliam à doctissimis viris, & ab illorum sententiis alienam: Veritate enim præponderante, nullus apud me Plato, *nullus erit* Aristoteles, (*nolo ego istiusmodi insaniam insanire, utcunque splendidam &* autoritativam:) *Cæterum tacitus hoc facio, & apud me, citra omnem velitationis pulverem, raro admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adversario aliquo eximio commissa, gloriolæ nescio quos fumos sibi pollicentur. Hæc scribendi ratio si tibi placeat, alios non moror, quibus si simplex veritas non arriserit, cum magnis nominibus deviare per me licebit. Vale, & meas Musas, ut soleas, ama: illæ, quod jam faciunt, te colent semper, & omni obsequio prosequentur.* Datum Abingdoniæ 14 Calend. Decemb. Anno χριστιανας 1622.

Dignitati tuæ

multiplici nexu mancipatus,

THO. GODWIN.

BENEVOLO LECTORI

Εὐσεβεῖν, Εὐχεῖσθαι.

MIraris forsan & redarguis, quod nondum desistem ab his elementaribus; quasi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his præviis studiis senium contrahere. Qui sic sentis, nec me satis noris: nec ludi literarii (pone lenocinium nominis, molestinæ dices,) iniquas leges, aut miserias quotidianas & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam e pistrino prodeuntem. Si minus placeat, illud dabis puerorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc studia, quæ alias jamdudum jussissem suas sibi res habere. Sic me amet Theologia, sacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ accesseris; non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit aut didicit.

Vale.

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THE

ROMAN ANTIQUITIES

Expounded in

ENGLISH.

LIB. I. SECT. I.

Of the Chief Parts of the City.

CAP. 1.

De modo condendarum, delendarumq; Urbium.

BEfore we handle the Deſcription of the particular places in the Roman City, it will not be amiſs to premiſe ſomewhat concerning the antient manner of building and razing Cities. In the Building of Cities, the Founders thereof did uſually conſult with their Gods in their *Augural* obſervations; and [a] this courſe was obſerved by *Romulus* himſelf, in the firſt Foundation of *Roma*: After their *Augural* obſervations, they

[a] M. Tullius l. 1. de divin.

they marked out the place where the Wall of the City should be built, by plowing up the ground: and because they left that place of ground unplowed, lightly lifting the plow over it, where they appointed the Gate of the City; thence *à portando*, from carrying and lifting the plough they called the Gate *Porta*. This custom is fully described by [b] *Cato*, *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arâsset, murum faciebat; ubi portam volebat esse, aratrum tollebat, & portam vocabat.* *Virgil* also alludeth unto it,

Interea Æneas urbem designat aratro.

[b] M. Cato in fragm.

The manner hereof was, that he who held the plough, did cast up the skirt of his gown on the right shoulder, and girt himself about; either because this was the usual habit of such who performed holy Rites; (in the number of which, this present action was reputed;) or that he might the more readily address himself to the business; or lastly, that he might symbolically by that pacifical habit intimate, that the flourishing estate of the City, is not so much preserved by war as by peace. Hence *Ovid. l. 4. Fastorum.*

Ipse tenens stivam, designat mœnia sulco,
Alba jugum niveo cum bove vacca tulit.

[c] Cœl. Rhod. ant. l. 26. c. 5.

The [c] like custom was used also in the razing or demolishing of Cities, when they had been vanquished by the enemies: which observation giveth light to that of *Horace, Lib. Od. 1. 16.*

——— *Urbibus ultima*
Stetêre causa, cùm perirent
Funditus, imprimerétque muris
Hostile aratrum exercitus insolens.

CAP. 2.

De Monte Palatino.

TOuching the name of *Rome*, from what occasion the City should be so denominated, divers Authors conceit diversly. [d] Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, and was then called

[d] Vid. Ant. Constant. in Ovid. Fast. l. 1.

called by the Latines *Valentia*, which was a name of ſtrength; whence *Evander* coming into *Italy*, called it *Roma*, from ῥώμη *Robur*. Others ſay, it was ſo called from *Aſcanius* his daughter whoſe name was *Roma*. But it is agreed upon by moſt Writers, that the founders were *Romulus* and *Remus*; and from *Romulus* it was called *Roma*, not *Romula*, becauſe the diminutive *Romula*, might ominate leſs proſperity thereunto. *e* Some ſay, that they built it in form of a Quadrangle upon one only Hill, called *Mons Palatinus*. *f* Others ſay, that *Fabius* left *Rome* as it was firſt built, with the fields thereof, painted in the form of a bow, the River *Tiber* being the ſtring thereof. Upon this *Palatine* Hill, was always the Seat of the *Roman* Empire, which from the Hill took the denomination of a *Palace*: and hence all *g* ſtately Buildings which we call *Palaces*, took their name *Palatia*. This Hill had its firſt appellation *b* *Balatinus à Balando*, from the bellowing of cattle paſturing there in former times; and afterwards the firſt Letter being changed, it was called *Palatinus*, by the figure ἀλλοιοιον. *Virgil* ſeemeth to be of opinion, that the Hill was called *Palatinus*, by *Evander*, in remembrance of his Grand-father, whoſe name was *Pallas*, according to that,

e Roſin. ant. l. 1. c. 2.
f Sig. de jur. Rom. l. 1. c. 2.
g Roſin. ant. l. 1. c. 4.
b Vid. Serv. in Æn. l. 8.

——*Poſuere in montibus urbem,*
Pallantis proavi de nomine Palantæum. Virg. Æn. *l.* 8.

In proceſs of time ſix other Hills by ſeveral Kings of *Rome* were added; whereby the City, and the *Pomœrium*, that is, the territories of the City were enlarged; and *Rome* called *Urbs ſepticollis*, i. e. the City upon ſeven Hills.

Sed quæ de ſeptem totum circumſpicit orbem
Montibus, imperii Roma deumq; locus. Ovid. triſt. lib. 1. Eleg. 4.

Upon this *Palatine* Hill alſo ſtood the *Aſylum*, or Sanctuary of Refuge, which *Romulus* opened *i* in imitation of *Cadmus*, who at the building of *Thebes* was ſaid to have opened a Sanctuary of Refuge, whither whatſoever Ma-

i Alex. Gen. dier. l. 3. c. 20. ubi plura leſtione digna de Aſylis.

lefactor could escape, were he bond or free, he was not to be punished. It was much like unto a Custom of the people in the City of *Croton*, who flying unto the Altars of their gods, obtained the forgiveness of faults not voluntarily committed. Whence these two Phrases are expounded alike, *Ad te tanquam ad Asylum*, and, *Ad te tanquam ad Aram confugimus*, i. e. we flee unto thee as our only refuge.

CAP. 3.

De Monte Capitolino.

THis Hill was famous for three names: it was called *Capitolium*, *Mons Tarpeius*, and *Mons Saturni*. It was named *Saturn*'s Hill *k* from the Heathenish god *Saturn*, who vouchsafed to undertake the protection of that place. It was named the *Terpeian* Hill, *l* from *Tarpeia* one of the Vestal Nuns, Daughter to the chief Keeper of the Capitol, (this Hill being the Castle of Defence for the whole Town.) For this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her Treason. Now the enemies when they were admitted in, did cast not their bracelets alone, but their bucklers also upon her, through the weight whereof she was pressed to death: upon which occasion the whole Hill was afterwards called, *The Tarpeian Mount*; but more principally a certain Rock of that Hill, called *Tarpeia rupes*, from whence Malefactors were sundry times tumbled head-long. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the Honour of *Jupiter*, was laid, a mans head, full, fresh and lively, as if it had been lately buried, *m* yea, hot blood issuing out of it, was found there. *n Arnobius* saith, that the name of this man, being alive, was *Tolus*, and hence from *Caput* and *Tolus*, the whole Hill was called *Capitolium*.

1. *k* Rosin. ant. l. 1. c. 5.

2. *l* Plutar. in Romulo.

3. *m* Dion. Halicar. l. 4. *n* Lips. de magnitud. Rom. c. 5.

CAP.

CAP. 4.

De Colle Quirinali.

THis Hill being in former time called *Agenalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines:*) though rome would therefore have it named *Quirinalis*, becauſe there was a Temple erected in the Honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperors, *Mons Caballus*, that is, the Horſe-hill, taking its denomination from two Marble-Statues of *Alexander* taming his horſe *Bucephalus*: which Statues *Conſtantine* the Emperor brought to *Rome*, and placed them in the midſt of certain Baths, which he made upon this Hill. There do appear in this Hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *o Roſinus*.

o Ant. Rom. l. 2. c. 6.

CAP. 5.

De Monte Cœlio.

THis Hill hath his name from a certain *p* Captain of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this Hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerved as his Palace: but afterward they became the chief Council-houſe, whither *Senators* aſſembled themſelves, for the determining of State-matters: and becauſe this *Curia* did far exceed all others, therefore Authors many times uſe this word *q Curia* ſimply, without any adjunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Privy-Council-Chamber, in reſpect that none might ſit there but only *Senators*; whereas in the Court-Houſe which *Pompey* built (being therefore called *Curia Pompeia*)

p Alex. Gen. dier. l. 1. c. 11.

q Alex. Gen. dier. l. 1. c. 15.

Pompeia) *r* other City-Magiſtrates were admitted amongſt the *Senators*: and in *Curia Julia*, *id eſt*, the Court-houſe which *Julius* made, were examined *ſ* Forrein matters, as Embaſſages: but in *Curia Hoſtilia* domeſtical matters only were treated of, and that only by the *Senators*. *t* At this preſent time, this Hill is beautified with many Chriſtian Churches, as the Churches of St. *Stephen*, St. *Paul*, and St. *John*, our Saviours Hoſpital, *&c.* *u* It was alſo called *Mons Querculanus*, from the abundance of Okes growing there.

r Roſin. ant. l. 7. c. 5.
ſ Roſin. ibid.
t Munſt. in ſua Coſmog. l. 2. c. 9.
u Alex. Gen. dier. l. 6. c. 11.

CAP. 6.

De Monte Eſquilino.

THis Hill was ſo named, *quaſi* x *exeubinus*, *ab excubiis*, *id eſt*, from the night-watching which *Romulus* did undertake upon it, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their League. In this Hill there were three Hillocks, named *Ciſpius*, *Opius*, and *Septimius*.

x Roſin. ant. l. 1. c. 8.

CAP. 7.

De Monte Aventino.

THe *Aventine* Mount, took its name *a* from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this Hill ſtood *Hercules* his Altar, and certain Temples conſecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id eſt*, *Venus*: whence the Hill hath ſometimes been called *Diana* her Hill, and *Mons Murcius*. Upon *b* this Mount, *Remus* would have built *Rome*, and therefore it was called *Remonius Mons*: but ſince it hath been called *Mons Rignarius*, as it appeareth by *Plutarch* in the ſame place. It had moreover the name of the *Holy Mount*, being called in Latine *Mons Sacer*.

a Alex. Gen. dier. l. 6. c. 11.
b Plutarch. in Romulo.

CAP.

CAP. 8.

De Monte Viminali.

BEcauſe of the abundance of wicker twigs which did grow upon this Hill, it was called *Mons Viminalis*, *vimen* ſignifying a Twig or Ozier. I am not ignorant that ſome would have this Hill to be named *Viminalis*, from *Jupiter Viminеus*; whereas *Jupiter* himſelf was named *Viminеus* from this Hill, becauſe he had here many Altars erected in the Honour of him. Both this Hill and *Jupiter*, were called *Fagutales*, from *ſylva fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. Antiq. lib.* 1. *cap.* 9.

CAP. 9.

De tribus Collibus adjectis.

THree *c* other Hills there were, which in proceſs of time were added unto the City; which partly becauſe they were not included within the *Pomœrium* ſo ſoon as the other, but chiefly becauſe they were not of ſuch note, therefore *Rome* retained the name *Septicollis*. The firſt of thoſe Hills was called *Collis Hortulorum*, *i. e.* the Hill of Gardens; ſo termed, becauſe of the many Gardens near adjoyning. *d* Here was the *Circus*, or the ſhew-place of the ſtrumpet *Flora*, which made the people of *Rome* heir to thoſe goods which ſhe had gotten by proſtituting her body to young Gentlemen, leaving alſo a certain ſum of money to procure a celebration of her birth-day: which becauſe of her infamy, the people ſhaming to do, they feigned her to be the Goddeſs of flowers, and that ſhe muſt be firſt appeaſed by ſports and plays, performed in the Honour of her, before the Trees and Fruits of the earth would proſper: *e* and that they might gain the better credit unto this their Fable, they add further, that ſhe was once called *Chloris*, and was married

c Roſin. ant. l. 1. c. 11.

d Bar. Lat. in Verrin. Orac. 7.

e Lactant. de fal. relig. l. 1. c. 20.

ried unto *Zephyrus*, from whom by way of dowry she received power over the flowers. The second was called *Janiculus*, from *Janus* that two-faced God: who, as Writers testifie, was there buried. It did lie beyond the River *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons Aureus*, and through negligence of the Printer, *Montorious, id est*, the Golden Mountain. The third was famous for the many Divinations and Prophecies uttered upon it, and thence was it named *Vaticanus*, from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana.*

f Munst. in sua Cosmog. l. 2. c. 8.

CAP. 10.

De Foro Romano.

Forum hath divers acceptions: sometimes it is taken for a place of Negotiation, or Merchandising, which we call a *Market-place*: and being taken in this sence, it hath commonly some adjective joyned with it, as *Forum boarium*, the beast-market; *Forum piscarium*, the Fish-market; *Olitorium Forum*, the Herb-market: other times it is taken for any place, whereso'ever the Chief Governour of a Province doth convocate his people together, there to give judgement according to the course in Law: whence a man is said, *Forum agere*, *g* when he keeps the *Assizes*; and *Forum indicere*, when he appointeth the place where the *Assizes* shall be kept. Thirdly, It is taken for a place where Controversies in Law are judicially determined, and Orations are had unto the people. At first, of this sort were only three, *Romanum*, *Julium*, and *Augustum*, as is clearly evidenced by that of *Martial*,

g Hubert. in Cic. l. 3. ep. fam. 6.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to six distinct *Forums*. One called *Forum Julium*, because it was built by *Julius Cæsar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum* was

founded

founded by *Domitian* the *Emperour*: but by reaſon of his ſudden death, *Nerva* had the finiſhing thereof. It had the name of *Forum Tranſitorium*, the Tranſitory *Forum*, becauſe there was *Tranſitus*, *i. e.* a way or paſſage through it into three ſeveral Market-places. The ſame *Martial* called it ſometimes *b Forum Palladium*, becauſe in the middle thereof a Temple was erected in the Honour of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a ſtately Column or Pillar 140 cubits high, having all the noble exploits performed by *Trajanus* engraven in it: another was called *Saluſtii Forum*, becauſe *Saluſt* bought it with divers Gardens adjoyning, which ſince have been called *Horti Saluſtini*. The laſt *Forum*, which indeed was firſt built, and in all reſpects excelled the reſt, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency, the *Forum*, as if there were no other *Forum*: where we muſt underſtand, that as often as *Forum* is uſed in this latter ſence, namely, for a pleading place, it is ſo uſed figuratively, by the figure Synedoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great Building, which they called *Roſtra*. *i* Round about this *Forum Romanum*, were built certain Trades-mens ſhops, which they termed *Taberna*, and alſo other ſtately buildings, called *Baſilica Pauli*. Here was the *Comitium*, or Hall of Juſtice; the *Roſtra*, *id eſt*, the Orators Pulpit; *Saturns* Sanctuary, or the common Treaſure-houſe; and *Caſtors* Temple: of all which in their order.

b Lipſius de magnitud. Rom. l. 3. c. 7.

i Hen. Salmuth. in Pancerol. lib. rerum deperdit. cap. de Baſil. & Taber.

CAP. II.

De Baſilicis.

Baſilica were upper-buildings, of great ſtate and much coſt, being ſupported with *Pilæ*, *i. e.* flat-ſided pillars, and having underneath them walks, much reſembling our Cloyſters, ſaving that the *Intercolumnia*, or ſpaces between

tween the Pillars lay open unto the very ground. That they were upper buildings, may be collected by the Custom of many men, which were wont to walk under these Basilical Buildings, and therefore were called *Subbasilicani* by *Plautus*. The use of these were principally for the *k* Judges to sit in judgement: but in their absence it was Lawful for Merchants to deal in their businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

k Sigon. de judiciis. l. 1. c. 28.

CAP. 12.

De Comitiis.

Comitium *l* was a part of the *Forum Romanum*, being a great large Hall of Justice, which for long time was open at the top, having no covering; and for that reason the assemblies were often dissolved, in rainy or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high, in form of our Pulpits, but many degrees larger, and in the midst thereof the *Sella Curulis*, *id est*, the Ivory Chair, from whence the Chief Magistrate administred Justice; other Inferiour Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had power *cognoscere*, but not *pronunciare*; much like to our Justices at Assises, which may examine or inform against a Malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an Edifice or Building; and *Comitia*, signifying the *Roman* Assemblies: both being called *à coeundo*. This Hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by *m* some: That in this *Comitium*, *Aelius Nævius* did once with a Razor cut in two a Whetstone, and in memory thereof, his Statue was erected, with a Hat upon his Head: for *Puteal* properly doth signifie the Cover of a Well, but in a large acception it signi-

l Sigon. de jud. 1. c. 7.

m Cœl. Rhod. l. 10. c. 17.

ſignifieth a broad brimmed Hat, as *Cælius Rhodiginus* noteth in the ſame place. *n Cicero* toucheth this: *Cotem illam, & novaculam defoſſam in Comitio, ſupraque impoſitum Puteal accepimus.* But why it ſhould be called *Puteal Libonis*, is yet doubtful; except happily *Libo* was the firſt erector of this Statue. That it was a common Court, and known place of Juſtice, *Horace* witneſſeth: *Roſcius orabat, ſibi adeſſes ad puteal cras.*

n Cic. de divinat.

CAP. 13.
De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly fair Edifice, in manner of the body of a Cathedral-Church: In it ſtood an Orators Pulpit, deckt and beautified with the ſtems of many Ships, which the *Romans* got from the people of *Antium*, in a memorable Battle upon the Sea: and *o* hence from thoſe Ship-Beaks, called in Latine *Roſtra*, hath this place taken its name. It may be Engliſhed, the great Oratory, or place of *Common Plea.*

o Hubert. in Cic. ep. lib. 8. ep. fam. 1.

CAP. 14.
De Templo Caſtoris.

ANother part of the *Forum* was a Sanctuary built in the Honour of *Caſtor* and *Pollux*: the reaſon thereof was, becauſe they appeared unto the *Romans* in the *Latine* War, in the likeneſs of two Angels ſent from Heaven to lead the *Roman* Army, and to aſſiſt the *Romans* againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field, none knowing how: and even in the ſame moment they appeared upon their ſweating-Horſes unto the *Roman* Citizens in the *Forum*, who taking them for Souldiers, demanded what news they brought home from the Camp; they replied, that the *Romans* were Conquerors: which news being delivered, they ſuddenly vaniſhed, and were ſeen no more.

Upon this occasion did *A. Posthumius*, being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were seen, in honour of them both. Although in the after-Ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow-Consul *Julius Cæsar*, saying, *p* it fared with him, as it did with *Pollux*, *i. e.* As this Temple which was erected in the honour of both the Brethren, carried the name only of *Castors* Temple; so the great expences in exhibiting shews in the time of their Consulship, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the thanks and credit. In so much, that the people being wont to subscribe the names of both Consuls at the end of their Deeds and Charters, for a Remembrance of the Year; that Year they wrote, Such a thing done, not *Bibulus* and *Cæsar*, but *Julius* and *Cæsar* being Consuls.

p Suet. in Jul. Cæs.

CAP. 15.

De Æde Saturni.

Saturns Sanctuary *q* was the Common Treasure-house, wherein the Subsidie-Money which the Commons paid unto the Treasurers, called *Quæstores*, was to be laid up: whereof divers conjecture diversly. *Alexander Neap.* *r* saith, that *Saturn* found out the use of brazen Money; and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place, did allude to the integrity of the time wherein *Saturn* reigned, being the Worlds Golden Age. *s* But the most received opinion is, the strength of the place, whereby it was the safer from Thieves. The Temple, by reason of the use it was put unto, was called *Ærarium*, from *as*, *id est*, Brass; which name now is common to all Treasure-houses; for that the first Money used by the *Romans* was of that metal, until the year of *Rome*, 485. (as *Pliny* wit-

q Plutarch in Publicola.

r Alex. Gen. dier. l. 4. c. 13.

s Alex. Gen. dier. l. 2. c. 2.

witneſſeth, *lib.* 3. *cap.* 33.) *q* Some are of opinion, that before the uſe of braſs, they made money of leather: whence *Numa Pompilius* is ſaid to have given leather money in a dole unto the people. Touching their order obſerved in the Treaſury, we muſt underſtand that their care in providing againſt ſudden dangers was ſuch, that they laid aſide the twentieth part of their receipts, which they *r* called *Aurum viceſimarium*, *Incenſimarium*, and *Cimiliarchium*, into an inner-Chamber, or more ſacred room, named in Latine *Ærarium ſanctius* *ſ*. We may read alſo of a third Treaſury, called *Ærarium militare*, wherein *Auguſtus* had appointed that the twentieth part of certain Legacies ſhould be laid up to defray charges in extraordinary Wars: where it lay ſo priviledged, that it was a Capital Crime to uſe any of it, but in extream and deſperate neceſſity. Notwithſtanding, howſoever it was uſed as a Treaſure-Houſe; *t* yet divers Authors teſtifie that the Acts of their Senate, the Books of Records, together with ſuch Books as were for their immeaſurable bigneſs called *Libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their Military Enſigns, were contained there. *u* And from thoſe Statute-Books called *Tabulæ Publicæ*, this Treaſury was alſo called *Tabularium*, becauſe they were laid up there.

q Alex. Genial. dier. l. 4. c. 15.

r Alex. Genial. dier. l. 2. c. 2.

ſ Servius l. 2. Virg. Georg.

t Alex. Genial. dier. l. 2. c. 2.

u Plutarch. in ſuis Problemat. vid. Franc. Sylvium in Catilinar. 4.

CAP. 16.

De Campo Scelerato.

Campus Sceleratus, the field of Execution *x* lying within the City, joyned to the Gate *Collatina*. It was the place where the Veſtal Nuns, if they were deflowred, ſuffered puniſhment after this manner. There *a* was made a Vault under the Earth, with a hole left open above, whereby one might go down; and within there was a little couch with a burning Lamp, and a few Victuals, whither the defiled Votary was to be brought, through the

x Munſter. in ſua Coſmog.

a Plutarch. in Numa.

Market-place in a Litter ſo cloſed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of Execution, was let down by a Ladder into a hollow Cave, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kind of death, was, becauſe they thought it not fit that ſhe ſhould be burnt with fire, which kept not the ſacred fire with greater Sanctity: and it was thought unlawful to puniſh them by laying violent hands on them becauſe they had in former time ſerved in ſo holy a function.

CAP. 17.

De Campo Martio.

b Roſin. ant. l. 6. c. 11.

THe *b Campus Martius*, otherwiſe called *Tiberinus*, (becauſe it was near the River *Tibur*) was given unto the *Roman* people, by *Caia Tarratia*, a Veſtal Virgin; but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his own private uſe, inſomuch that he ſowed Corn there; which, when he was depoſed, the *Romans* did caſt into the River *Tiber*, judging it unfit that any man ſhould reap any commodity from ſo holy a ground. In proceſs of time the ſheaves of Corn being ſtopped in a ſhallow ford of the River, became firm ground, and was called, *The holy Iſland*, or *Æſculapius his Iſland*; and preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored unto its former uſe. Beſides the natural pleaſantneſs of the place it ſelf, it was beautified with many Ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewiſe with divers Images of well-deſerving men. Hither did the younger ſort of the *Romans* come to exerciſe Chivalry, namely, the Horſe-race, the Foot race, Wreſtling, Fencing, caſting the Bowl, the Sledge, the Dart, uſing the Sling, the Bow, Vaulting, with ſuch like; and upon this occaſion it was dedicated to *Mars*, and called by *Strabo*,

The

The Romans *Great School of Defence.* *c* The manner of Vaulting, was, in riding, to leap from one Horſe-back upon another; their cuſtom being for their Horſemen in War, to lead a ſpare Horſe in their Hands, beſides that whereon they did ride, that when the one did ſweat, they leaped upon the others back; *à deſiliendo*, thoſe Horſes were called *Equi deſultorii*: *whence* an unconſtant, wavering and unſetled mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Deſultorium ingenium*. In this field were men of beſt Note burned when they died. Here were the Kings, and other Magiſtrates at firſt created. In this *d* field of *Mars*, alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ovilia*, or *Septa*; but afterwards it was mounted with Marble-ſtone, beautified with ſtately Walks and Galleries, and alſo with a Tribunal or Seat of Juſtice; within which precinct the people oftentimes aſſembled, to give their ſuffrages towards the Election of Magiſtrates. The means of aſcending up unto theſe *Ovilia* was not by ſtairs, but by many bridges made for that time; every Pariſh in the aſſembly of Pariſhes, and every Tribe or Ward in the aſſembly of the Tribes, and every Hundred in the aſſembly of Centuries, having his Bridge: whence this Proverb was occaſion'd *De ponte dejicendus*, *id eſt*, he is to be debarred from giving his Voice. *e* Theſe Bridges were not made over any River, but over the dry Land: whence men were ſaid to be caſt, *Non ut periclitarentur de vita, ſed ne ſuffragrentur in Comitiis.*

c Cœl. Rhod. l. 21. c. 29, 30.

d Servius in Bucol. Ecl. 1.

e Ioan. Saxonius in Orat. pro S. Roſcio.

CAP. 18.

De Circo Maximo.

AMongſt other places where the *Romans* exhibited their Plays unto the Pople, the moſt remarkable was a great Cirque, or Shew-place, called in *Latine Circus Maximus*. It was a large piece of ground lying near that part of the *Aventine* Mount, where *Diana's*

na's Temple ſtood. It was built by *Tarquinius Priſcus*, with divers Galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horſes at Liſts, the Fire-works, Tumbling, the Bayting and chaſing of wild Beaſts, *&c.* In former time all did ſtand on the ground, being ſheltred from the rain by the help of Boards upheld with forks, in manner of Houſe-pentices: and this cuſtom continued until the aforeſaid *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them, allotting every ward or Company their ſeveral quarters, all the ſeats being able to contain one hundred and fifty thouſand parties. *f* Under theſe places were Cells or Vaults, where Women did proſtitute their bodies, and would buy ſtollen goods; and for this reaſon *Horace* calleth it, *Fallacem circum*, *i.e.* the deceitful Shew-place. There was at one end of the Cirque certain barriers, *i. e.* places barr'd, or rail'd in, at which place the Horſes began the race: and at the other end was the mark, whither the Horſes ran: it was called in Latine *Meta*, and the Barriers *Carceres à coercendo*. Whence we ſay, *à carceribus ad metam*, *i.e.* from the beginning to the ending.

f Roſin. ant. l. 5. c. 4.

CAP. 19.

De Theatro.

THe *Theatre* *g* hath his Name from the Greek Verb, θεᾶσθαι, *id eſt*, to behold: becauſe the people flocked thither, to behold Playes and Shews exhibited to them. The cuſtom *b* firſt ſprang from the Shepherds, who leading a contemplative life, were wont to compoſe Dialogues in Metre, and at their leaſure to recite them under the trees preſſed down in form of an Arbor, whence this Theatral term σκηνὴ hath been derived from σκιὰ a ſhadow, but afterwards learned Poets compoſed *Comedies* & *Tragedies*, which were publickly acted in the City upon a Stage, and though at firſt it was accounted infamous to frequent them, yet afterwards the Senators themſelves, yea, the Emperor

g Joach. Camerar. in orat. pro L. Flacco.
b Serv. l. 2. Virg. Georg.

Emperor, & all the Chief of *Rome* assembled thither. *i* Neither for a long continuance were there any Seats built, but Commons and Nobles, promiscuously one with another, all stood on the ground: insomuch that those which stood behind, raised up places with turfs of Earth, which gave the people occasion to call the place between those turfs and the scaffold, *Cavea, id est*, a Cave or Den: yea, the people that stood there, were so called from the place. Though the Theatre be now taken only for the Stage, yet then by it was understood the whole Room, where these Plays were Acted: and it had divers parts; some proper to the Actors, some to the Spectators. To the Actors, first belonged the *Proscenium, id est*, the House whence the Players came: where they apparelled themselves; though sometimes it is taken for the Scaffold, or Stage it self. Secondly, the *Pulpitum, id est*, the Stage, or Scaffold upon which they Acted: and thirdly, the *Scena*, that is, the partition, which was commonly made of wood, not of hangings. Now that they might change their Scene, according to their pleasure, they made it *k Versatilem, id est*, so that with Engines it might upon the sudden be turned round, and so bring the Pictures of the other side into outward appearance: or otherwise *Ductilem, id est*, so that by drawing aside of some wainscot-shuttles (which before did hide the inward painting) a new Partition might seem to be put up: And I think, because those Shepherds did Act no more at a time, than one of our Scenes; hence have we distinguished our Plays into so many parts, which we call Scenes. The places which were proper to the Spectators, were distinguished according to their degree and Rank; for the remotest Benches were for the Commons, and called *Popularia*; the next for the Knights and Gentlemen of *Rome*, and called therefore *Equestria*, the others wherein the Senators did sit, were commonly called *Orchestra*. This may be collected out of *l Lipsius*. *m Cœl. Rhodiginus* saith, that the *Orchestra* was that place joyning

i Alex. Gen. dier. l. 5. c. 19.

k Servius l. 3. Virg. Georg.

l Lipsius de amphith. c. 14.

m Cœl. Rhod. to l. 8. c. 8.

to the Stage, where *Chorus* ſpake to the people at the end of every Act. Divers Authors are of *Cœl. Rhod.* his Opinion, deriving the word *Oreheſtra*, from the Greek ὀρχέομαι to dance; but it ſeemeth more probable to have been a peculiar place, allotted for the Senators: *Ju. Sat.* 3.

Æquales habitus illic, ſimilemque videbis
Orcheſtram & populum —— id eſt optimates & plebem.

The whole Building made for entertainment of the Spectators, reſembled a Triangle or wedge, ſharp towards the Stage, and broad behind; whence the whole was denoted by the name *Cuneus*: when *Cuneus* ſignified any particular place about the Theatre, then by it we are to underſtand that which formerly we called *Popularia*, the place for the meaner ſort of people: *n* whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus.* There was alſo another kind of ſcaffold, built quite round, made as it were of two Theatres joyn'd together; it was called *Amphitheatrum*, and differ'd from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a ſemi-circle; it *o* reſembled an Egg. Upon this kind of Scaffold did the Maſters of Defence play their Prizes, and wild Beaſts were baited. *p In Amphitheatro gladiatorii ludi, & concluſarum ferarum venationes exhibebantur.* The *Amphitheatre* it ſelf, in the judgement of *Lipſius q* was termed *Cavea, ab interiore parte qua concava erat*; and *Arena*, becauſe it was ſtrewed with gravel and ſand, that the blood of ſuch as were ſlain in the place, might not make the place too ſlippery for the Combatants. Hence cometh that Phraſe, *In arenam deſcendere*, to go into the field; and the Combatants were thence called *Arenarii*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravel, yet ſometimes in their extraordinary Shews that gravel was covered, and as it were new coated, with the ſcrapings and duſt of ſome extraordinary ſtones, to add the greater luſtre unto it: thus much *r Pliny* intimateth, *Invenere & alium*

n Cœl. Rhod. lib. 8. c. 8.

o Turneb. adverſ. lib. 5. c. 5.

p Hoſp. de orig. feſt.

q Lipſ. de Amphith. c. & 3.

r Plin. lib. 36.

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beasts were kept, and likewise men to be committed with wild beasts, out of which these were let loose by the lifting up of Trap doors to be hunted or baited upon the *Amphiteatre*, were called *Caveæ*. For we must know that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wild beasts and beastiaries, so sometime for the better conveying of waters thither, by the means whereof [f] real Ships and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*.

[f] Sueton. in Domitian.

CAP. 20.

MOreover, for the better understanding of Classical Authors, it will not be impertinent to point at the general names by which the Religious places were called, and to declare the proper acception of each name: the names being these, *Templum*, *Fanum*, *Delubrum*, *Ædes sacræ*, *Pulvinar*, *Sacrarium*, *Lucus*, *Scrobiculus*, *Ara*, *Altare*, *Focus*.

De Templo.

This word *Templum* doth sometimes signifie those [a] spaces and regions in the Air and Earth, which the *Augures* did quarter out with their crooked staff at their Sooth-saying: sometimes it doth signifie a Sepulchre or Grave, [b] because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*, and in this sence may *Virgil* be understood.

[a] Cosm. ant. l. 2. c. 2.

[b] Lilius Gyrald. de diis gentil. syntag. 17.

[c] *Præterea fuit antiquo de marmore Templum*
Conjugis antiqui ———

[c] Lib. 4. Æneid. v. 457.

Most commonly it doth signifie a *Church* or *Temple*; in which sence as often as it is used, it is [d] said *à templando*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majesty of God,

[d] Fanc. Sylv. in orat. pro L. Muræn.

De Fano.

X It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people.

f Turneb. adver. l. 3. c. 9. f Some are of opinion, that *Fanum* in propriety of speech, signifieth the *Churchyard*, or Court before the Temple; *Templum* signifieth the Edifice or Church built.

De Delubro.

X Thirdly, a Church was called *Delubrum Synecdochicῶς*, because it was the principal part of the Church, namely the place where the Idol-god stood; and it was called

g Rosin. ant. l. 2. c. 9. X *Delubrum* from *Deus*; g as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confined under a roof, whose doing good consisted in being abroad; other some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *pronaos*, or *Church-porch*, whereabouts they were wont to have the Image of the beast *Sphynx*, which was so famous for his obscure riddles; so that by this Image was signified, that the Oracles of the Gods, which were treated of within the Church, were dark and mystical. They had certain X walks on each side of the *body of the Church*, which they called *porticus*; and in these places it was lawful for them to merchandize, make bargains, or confer of any worldly business, as likewise, in the *Basilica*, or *Body* it self.

X But their *Quire*, called *Chorus*, was counted a more holy place, set apart only for Divine service. The manner of

b Rosin. ib. hallowing it was as followeth. b When the place where the temple should be built, had been appointed by the *Augures* (which appointing, or determining the place they called *Effari templa, & sistere Fana*) then did the party, which formerly in time of need, upon condition of help from the Gods, had vowed a Temple, call together the *Aruspices*, which should direct him in what form,

form the Temple ſhould be built; which being known, certain ribbands and fillets were drawn about the *area* or plot of ground, with Flowers and Garlands ſtrewed underneath, as it was probable, to diſtinguiſh the limits of this ground now to be hallowed. Then certain Souldiers marched in with boughs in their hands, and after followed Veſtal Nuns, leading young Boys and Maids in their hands, who ſprinkled the place with holy water. After this followed the *Prætor*, ſome *Pontiffe* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and a Bull, ſacrificed them: and their entrails being laid upon a turf, the *Prætor* offered up prayers unto the Gods, that they would bleſs thoſe holy places, which good men intended to dedicate unto them. This being done, the *Prætor* touched certain ropes, wherewith a great ſtone, being the firſt of the foundation, was tyed; together with that, other chief Magiſtrates, Prieſts, and all ſorts of people did help to pluck that ſtone, and let it down into its place, caſting in wedges of gold and ſilver, which had never been purified, or tried in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying; *Ne temeretur opus, ſaxo aurove in aliud deſtinato; id eſt*, Let not this work be unhallowed, by converting this ſtone or gold into any other uſe.

De Ædo ſacra.

Fourthly, a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction between a Church and a Religious houſe was this, that a Church, beſide that it was dedicated unto ſome God, it was alſo hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a Religious houſe: of which ſort was the Veſtal Nunnery, and the common

Treasury, called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, [i] which doth often signifie a Church: the reason being taken from a custom amongst the *Painims*, who were wont in their Churches to make certain beds in honour of their Gods, and those beds they called *Pulvinaria*, from *Pulvis*, because they were filled with dust or chaff.

[i] Barthol. Latomus in Philippic. 4 *am.*

De Sacraria.

Sometimes [k] *Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *nempe* [l] *Sacrorum repositorium*.

[k] Cic. pro Milone.
[l] Franc. Sylvius in orat. pro L. Muræn

De Lucis.

Near unto divers Temples stood certain Groves dedicated to some of the Gods: they were called in Latine *Luci, à non lucendo*, as divers say, by the figure *Antiphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night-time, by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed either in their Religious houses, or their Groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several names, *Scrobiculus, Ara, & Altare*.

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit containing an Altar in it, into which they poured down the blood of the beast slain, together with milk, honey, and wine, when they sacrificed to an infernal God.

[m] Alex. Gen. Alexandr. l. 5. c. 16.

De Ara.

The second kind of Altar was called *Ara* either *ab ardendo*, because their sacrifices were burned upon it; or from their imprecations used at that time: which in Greek they called ἀραὶ. It was made four-square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the terrestrial Gods, laying a turf of grass on the Altar: and this gave

gave *Virgil* occaſion to call them [n] *Aras gramineas, id eſt,* graſſie Altars. [n] Vir. Æn. 12.

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted up ſomewhat high from the ground; or becauſe he that ſacrificed (by reaſon the Altar was ſo high) was conſtrained to lift up his hands *in altum*, on high: and upon this they ſacrificed unto their Celeſtial Gods only. [o]. [o] Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a general name, ſignifying any of theſe Altars, ſo called *à fovendo*: becauſe, as *Servius* hath obſerved, that is *focus, quicquid fovet ignem, ſive ara ſit, ſive quicquid aliud in quo ignis fovetur.* But in ſtrict propriety of ſpeech, it is taken for that Altar, on which they ſacrificed to their domeſtick Gods, ſuch as were their *Penates* or *Lares*; as it appeareth by *Plautus*, [p]

Hæc imponentur in focum noſtro Lari,
Ut fortunatas faciat gnata nuptias.

[p] Aulular. act. 2. Sc. 5.

Whence ariſeth that Adage, *Pro aris & focis certare*, ſounding as much as to fight for the defence of Religion and ones private eſtate: or (as our Engliſh proverb is) for God and our Country: the proverb being in its original, part of the oath that was adminiſtred unto the *Roman* Soulđiers; and thus it is expounded by [q] *Turnebus.* [q] Turneb. adv. l. 10. c. 7.

LIB.

LIB. I. SECT. II.

The general Divisions of the ROMAN PEOPLE.

CAP. 1.

De populo Romano, *& ejus prima divisione.*

THus having premised a short Treatise concerning the first scituation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the inhabitants, which Antiquity hath styled Citizens of *Rome*. And *Erasmus* rather describing a *Roman* than defining him, saith, a *Roman* was grave in his conversation, severe in his judgement, constant in his purpose: Whence *Cicero* in his Epistle often used this phrase, *more Romano*, for *ex animo, id est*, unfeignedly. [a] *Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no man is *lege optima, id est*, in full and compleat manner a Citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of City-preferments. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*; and by the third, those which they call *Libertini*, are in a manner disfranchised. But whereas *Sigonius* saith, that they must have their habitation at *Rome*, he would not be so understood, as if a *Roman* Citizen might not remove his habitation

[a] Sig. de jur. Rom. l. 1. c. 1.

habitation to any other Country: For, saith he, a *Roman* Citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he pleases, so that he suffer himself to be cessed and taxed in common with others toward to subsidy-payments, and denyeth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by these priviledges, as by a more proper and peculiar character, distinguished from other people; and being planted in the City according to the appointment of *Romulus* their King, it seemed good unto him to divide them into [b] *Tribes*, not taking the note of distinction only from the divers places they then inhabited, as we read that *Servius* the sixth King of *Rome* did, making therefore four *Tribes* τοπικὰς, local, namely *Suburbanam*, *Palatinam*, *Collinam*, and *Esquilinam*, (which number of local Tribes in process of time increased unto the number of 35.) but dividing them according to their several Nations, which at the first were *donati Civitate*, *id est*, made free Denizens of *Rome*: and they being in number three, 1. The *Sabines*, which were named *Tatienses*, from their King *Tatius*. 2. The *Albanes*, called *Rhamnenses*, from *Romulus*. 3. Other Nations promiscuously flocking out of other Countries to the Roman *Asylum* placed in a Grove called in Latine *Lucus*, (which gave *Romulus* an occasion to name them *Luceres*:) he made in all three Tribes φυλὰς, or national. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then subdivided each Tribe into ten lesser numbers, which he called *Curiæ*, or Parishes: and then followed five other divisions in respect of their different degrees and callings: of which in their several order.

[b] Sig. de jur. Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima divisione Romanorum, in Senatores *sive Patres,* Patricios *sive Patronos, &* Plebeios *sive Clientes.*

THe first division of the *Romans* in respect of their degree and place, was this: The elder, wealthier, and gravest sort of *Romans*, were called sometime *Patricii*, either because of their age or gravity; or because they had many children (for great priviledges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as Patrons and Fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii*, *id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients: between whom there was such a mutual and reciprocal intercourse of love and duty, that as the *Patrons* were ready to protect their Clients, so the *Clients* were bound with all faithfulness to cleave unto their Patrons: and that not only to credit them with their attendance in publick Assemblies, but to disburse out of their own purses towards the bestowing of their daughters, the paying of publick mulcts, the giving of largesses in suing for offices, *&c.* Neither was it lawful for either of them to inform, to depose, to give their voices, or to side with adversaries one against another, without the guilt of treason; for which crime of treason they were *diis infernis devoti*, *i. e.* cursed to hell, and the Law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect 100 Counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another 100, and *Tarquinius Priscus*, as divers Authors testifie, made them a compleat 300, which they called *Patres*, or *Senatores*, and their sons *Patricii*. But in process of time the

o Lazius de Repub. Rom. l. 12. c. 3.

the Commons also were eligible into a Senators place. Some say, that *Tarquinius Priscus* added the second hundred to the *Senate* out of the Commons, who were called *d Senatores minorum Gentium, id est, Senators* of the lower house. *Brutus* added the last hundred, and made them 300. at what time they began to be called *Patres conscripti.* And this accordeth with *Johannes Rosa* in his Epitome to the *Roman* History, in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius priscus* did double the number of the *Senators*: And likewise *e Alexander Neop.* saith that *Brutus* made them compleat 300.

d Mert. Philericus in Cic. l. 1. ep. fam. 1.

e Alex. Gendier. l. 9. c. 2.

CAP. 3.

De secunda divisione Romanorum in tres ordines: Senatorium, Equestrem, Popularem, *seu Plebeium.*

After that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the Office which was before Monarchical, then was divided between two, called *Consuls*: Neither were they admitted for any longer space than one year. At which time of change the *Romans* were divided into three orders or Ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the *Romans Ordo Equestris*: by which we do not understand those 300. *Celeres, id est*, Pensioners, called sometimes *Equites*, for that was a place of service, this a title and token of Gentility; who although they were inferior to the cheif Senate, yet they were of great esteem among the *Romans*; and although they might not wear the same Robe as the Senators did, namely the *Laticlavium*, or garment bestudded with flourishings of purple silk in manner of broad nails-heads: *f* yet they might wear the *Angusticlavium*, a garment different from the former

f Rosin. ant. l. 1. c. 17.

only in this, because the purple studs wherewith it was pursled, were narrow, and not so large as the *Laticlavium*. They also at the time of their Election received from the *Censors* a horse called by them *Equus publicus*, because of the yearly allowance out of the common treasury to keep him; it was also called *Equus militaris*, because of their service in war *g* (they having their Horses kept as well in peace as war.) They received also a Gold Ring, *h* whereby they were distinguished from the populacie: for it was not lawful for any to wear a Gold Ring under the degree of a Senator, or Gentleman. The estimation and value of a Senators estate *i* until *Augustus* his time, was *octingenta sestertia*, that is, 6000 *l.* of a Gentlemans estate it was, *quadringenta sestertia, id est*, of our English money 3000 *l.* The third order or degree in the *Roman* Common-wealth, was *Populus*, the Populacy, or *Commons*, which should exercise trading, manure the ground, look unto the cattle, *&c.* Where by the way we must understand, that the baser sort of the *Romans* which did wander up and down to and fro, not setling themselves to any vocation, were not contained within this division; for unto them there was no name vouchsafed, but according to the Poet, they were *sine nomine turba*, or as *Livy* saith, *ignota capita*, men of no account, and therefore of no name.

g Lipsius de magnitud. Rom. l. 1. dial. 5.
h Alex. Gen. dier. l. 2. c. 29.
i Suet. in Aug.
k Plin. lib. 33. c. 22.

CAP. 4.

De tertiâ divisione in Nobiles, Novos & Ignobiles.

THis division was taken from the right or priviledge of having images; for they were accounted Noblemen, which had the Image of their Predecessors: Those which had their own Images only, were called *Novi*, that is, late quoined Nobles or upstarts. *Salust* useth this word often in the disgrace of *Tully*, calling him *Novum & reptitium civem*, one that lately crept into the City. The third sort, called *Ignobiles*, were those that had no Images, neither

neither of their Predecessors, nor of themselves. Before we proceed, we must understand, that it was not lawful for who would to have his own Image if he so desired; for none might be thus priviledged but those alone, to whom the right of riding in a Curule chair belonged; and to these the right of Images was permitted, as well for the credit of their house, as to incite others to the like atchievements, when they would consider the divers ceremonies used unto these Images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Jus Nobilitatis* is nothing else but *Jus Imaginis*: Insomuch that this word *Imago* doth sometimes signifie Nobility; and the right of having Images with them, was the same as the right of having Arms with us. *m* The Superstitious conceit which the *Romans* had of these Images was such, that upon festival days, and all occasions of joy and mirth, those Images should be beautified and adorned with garlands and flowers; upon occasion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their mourning. Some they kept in private Closets, *n* others they exposed to the publick view of passengers, placing them in the gates of their houses, together with the Swords, Targets, Helmets, Ship-beaks, and such other spoyls as formerly they had taken from their enemies; *o* which it was not lawful for any, though they bought the house, so much as to deface. Yea, they were so annexed to the freehold, that they passed always in the conveyance of the house. The matter of which they were commonly made, was Wax, as that of *Juvenal* doth sufficiently witness,

f Sig. de Jur. Rom. l. 2. c. 22.

m Alex. Gen. dier. l. 5. c. 24.

n Barth. Lat. in Verrin. 7.

o Plin. 25. 1.

p Tota licet veteres exornent undique cera
Atria, nobilitas sola est atq; unica virtus. *p* Juv. Sat. 8.

Again, we may not think, that they made in wax a compleat statue, or of a full portraicture of the whole body, but only from the shoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates *&* Populares.

THis fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates, id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares, id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populacy. So that here by this word *Popular*, we understand not the Commons as formerly we did, *r* but be he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

q Cic. pro Sextio.

r Geor. Merula in orat. pro Ligario.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, *&* Ingenuos: *Item de* Manumissione.

THe difference of the freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus* or *Liberta*. The son whose father and mother were once Apprentices, was called *Libertinus*; but that son whose father and mother were both *Libertines*, or both free born, *s* yea whose mother only was free, was called *Ingenuus, id est*, free born. But after *Appius Cecus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of freedom: so that *Liberti* and *Libertini* were taken for those which served

s Justin. inst. l. 1. tit. de ingenuis, vid. Franc. Sylv. in Catilin.

ſerved for their freedom; and *Ingenui*, were taken for thoſe which were free-born, whether their Parents were *Liberti*, or *Libertini*. Here is occaſion given us to conſider the manner of their freedom, and ſuch ceremonies which belonged thereunto. The freedom of the City of *Rome* was three ways obtained; 1. By *Birth*, both, or at leaſt one of the parents being free; and ſuch were called *Cives originarii*. 2. By *Gift* and *cooptation*, when the freedom was beſtowed on any ſtranger, or Nation; and they were termed *Civitate donati*: and ſo we read that *Caſar* took in whole Nations into the freedom. Laſtly, by *Manumiſſion*, which was thus: when as the ſervant was preſented by his Maſter before the *Conſul* or *Prætor*, the Maſter laying his hand upon his ſervants head, uſed this form of words, *Hunc liberum eſſe volo*; and with that turning his ſervant round, and giving him a cuff on the ear, he did *emittere ſervum è manu*: the *Prætor* then laying a certain wand or rod called *t Vindicta* upon the ſervants head, replyed in this manner *Dico eum liberum eſſe more Quiritum*. Then the *Lictor* or Sergeant taking the wand, did ſtrike therewith the ſervant on the head, and with his hand ſtruck him on the face, and gave him a puſh on the back, and after this he was regiſtred for a free man. Moreover, the ſervant having his head ſhaven purpoſely at that time, received a Cap as a token of liberty; whence *ad pileum vocare aliquem*, is to ſet one at liberty, as likewiſe *Vindicta liberare*. *u* According to *Tertullian*, at this time of their Manumiſſion the ſervants received from their Maſters a white garment, a Gold Ring, and a new name added unto the former. Whoſe authority if we admit, then the having of three names among the *Romans* was rather a ſign of *Freedom*, than of *Nobility*. And that of *Juvenal*,

Tanquam habeas tria nomina———

is not to be expounded, *as if you were a noble man*, but, *as if you were a free-man*. Here we may alſo conſider the two ſeveral kinds of ſervants; the firſt were called *ſervi*, and

t P. Ramus in orat. pro C. Rabirio.

u Tert. de reſur. carn.

and they could never attain to any freedom, without the consent of their master. x For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that Souldier, or bought *sub corona*, or of other Citizens that had gotten them one of these two former ways. The second were called properly y *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their Creditors by the *Prætor* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said z *nomina sua liberare*, when they paid the debt; as on the contrary they were said *nomina facere*, when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere*: *nomen* in these and the like places signifying as much as *debitum* a debt, a because their creditors did use to write down their debtors names. b The manner of suing for their debts was as it followeth; The debt being confessed, thirty days were allowed the debtor for the payment of the money (those days of respite they called *dies justos*, *velut justitium quoddam*, id est, *juris inter eos interstitionem & cessationem.*) The money not paid, the debtor was delivered up as a servant to his creditor; yea, he was sometimes cast into prison; and unless the creditor were in the mean time compounded with, he remained three-score days in prison; and three Market-days one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market-day he was either sold to foreigners for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a piece off his dead body instead of payment.

x Dion. Halicar. l. 4.

y Sig. de Jur. Rom. l. 1. c. 31.

z Mic. Toxita in orat. pro P. Quintio.

a Fr. Sylv. in ep. virorum illust. l. 1. ep. 6.

b Vid. Cœl. Rhod. l. 12. c. 20. It. A. Gel. l. 2. c. 21.

LIB.

LIB. II. SECT. I.

The general Diviſions of the ROMAN GODS.

De Diis.

THough Satan had much blinded the hearts of men in old time, yet was not the darkneſs of their underſtanding ſo great, but that they did eaſily perceive, and therefore willingly acknowledge, that there was ſome Supream Governour, ſome firſt Mover, as *Ariſtotle* ſaith, ſome firſt Original of all goodneſs, as *Plato* teacheth. So that if any made this queſtion, whether there were any God or no? he ſhould be urged to confeſs the truth of that, rather *Argumento baculino, quàm Ariſtoteliço*, rather with a good cudgel, than with any long diſpute. But as they were moſt certain that there was a God, ſo were they again very blind in diſcerning the true God: and hence hath been invented ſuch a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thouſand, and proved almoſt numberleſs. Wherefore I ſhall omit to make any diſtinct Treatiſe of the Gods, intending *obiter* and by the way to ſpeak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used. *Tul. lib.* 2. *de legibus*, reduceth all unto three heads; Gods cœlestial, which *Varro* calleth select; and others have stiled Gods *Majorum Gentium*, *i. e.* of the greater nations, because their power was greater than the others. *a Alexander Neopolitanus* saith, that twelve of these were the *Penates* which *Æneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes*, *quasi consentientes*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this Distich,

Juno, *Vesta*, *Minerva*, *Ceres*, *Diana*, *Venus*, *Mars*, *Mercurius*, *Jovis*, *Neptunus*, *Vulcanus*, *Apollo*.

a Alex. Gen. dier. l. 6. c. 6.

The second sort of gods were called *b Semidei*, *id est*, demigods; also *Indigites*, *id est*, Gods adopted or canonized; men deified. For as the select Gods had possession of heaven by their own right: so these Gods canonized, had it no otherwise than by right of donation, being therefore translated into heaven, because they lived as gods upon earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore they were called Gods of inferior note. *c Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signifie those that had been Gods perpetually, but *Divi* should signifie men made Gods; though commonly they are used one for another. Whence they called all their Emperors *Divi*, because for their deserts they thought them worthy to be gods. Now the *d* manner how a man became deified was this: The party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the out-side adorned richly with Gold, Ivory, and painted Tables; hither the dead

b Serv. in lib. 1 Georgic.

c In Æneid. lib. 5.

d Rosin. ant. l. 3. c. 18. vid. Hospin. de orig. Christ. F. p. 21. vid. exemplum hujus consecrationis in Severi sepultur. Herod. l. 4. p. 298.

corps

corps was to be carryed with great ſolemnities; the Senate, the gentleman and all the chief Magiſtrates going before, with hymns, and ſongs, and all kind of honour which was to be performed even to the Gods themſelves. He being in this manner brought, and laid within the ſecond tabernacle, the fire was kindled, by him who was to ſucceed in the Empire, for I find none canonized but only Emperors at their deceaſe: forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle, which was ſuppoſed to tranſport the ſoul of the dead body into heaven, inſomuch that ever after he was canonized amongſt the Gods, and worſhipped as a God. And becauſe they were thus turned into Gods, ſome have called them *Deos animales, quoniam anima humana verterentur in Deos.* This *e* canonization was by the Greeks termed ἀποθέωσις, by the Latines *conſecratio.* The third ſort were thoſe moral vertues, by which as by a ladder men climbed into heaven: and therefore did men ſtyle them Gods, becauſe by their means men became deified. Late Writers perceiving that all the number of the Gods could not be reduced into theſe three heads, have added a fourth ſort, which they *f* call *Semones, quaſi ſemi homines,* becauſe ancient Writers, as *Roſinus* hath obſerved, called men *hemones*, not *homines*: in which point I ſhall willingly condeſcend unto him; but I ſhall leave to the judgement of others, to determine how juſtly he hath reſtrained the Gods *minorum gentium*, of the leſſer Nations, only unto this laſt *claſſis*: whereas my opinion is, that the demi-gods, the moral vertues which have been ſtyled Gods, and theſe *Semones*, may all of them be called Gods of the leſſer Nations, ſtanding in oppoſition with the Gods ſelect, which are called Gods of the greater Nations. But that we may underſtand what is meant by theſe *Semones*, we muſt remember that by them are ſignified unto us not thoſe Gods which do appertain to man himſelf, but to the neceſſaries of mans living, his victuals, his cloathing,

e Serv. in Æn. lib. 3.

f Roſin. ant iq. l. 2. c. 19.

and the like: not to the being of a man, but to the well-being of him; of which ſort is *Salus*, *Fortuna*, with others. We read likewiſe of other names given in common to divers Gods, not as to oppoſite members of a diviſion, but as notes of diſtinction, drawn from the diverſity of help, which they ſeverally did afford unto man. In this reſpect ſome were called *Dii Patrii*, or *Tutelares*, ſuch as had undertaken the protection of any City or Town: which opinion had ſometimes been entertained by our Engliſh-men, and thence have riſen theſe and the like ſpeeches, St. *George* for *England*, St. *Denis* for *France*, St. *Patrick* for *Ireland*, &c. And the *Romans* being fully perſwaded of the truth thereof, whenſoever they went about to beſiege any Town, by certain Enchantments or Spells they would firſt call out theſe Tutelar Gods; becauſe they deemed it a matter impoſſible, to captivate the City, as long as theſe Gods were within; or at leaſt they thought it a crime unexpiable to take the Gods as priſoners. And leſt other Nations might uſe the ſame means in beſieging *Rome*, therefore, *g* as divers Authors have thought, the true Name of the Roman City was never known, leſt thereby the Name of their Tutelar God might be deſcryed. Others, namely, the *Tyrians*, have tied faſt their God *Hercules* with a Golden chain, thereby the more to ſecure themſelves of his reſidence among them. *h* Others have been called *Dii communes*, namely, *Mars*, *Bellona*, and *Victoria*, becauſe in time of War they are not bound to either ſide; but ſometime they help one ſide, and ſometimes the other. And as they ſuppoſed ſome Gods to have the protection of whole Countries, ſo did they believe that others had the charge of particular men; and that as ſoon as any man was born, two ſpirits did preſently accompany him inviſibly, the one termed the *bonus Genius*, or good Angel, perſwading him to that which ſhould be good; the other called the *malus Genius*, or evil Angel, tempting to that which ſhould be hurtful: inſomuch that they thought all the actions.

g Sylvius in epiſt. virorum illuſtrium.

h Alex. Gen. dier. l. 6. c. 4.

actions of men to be guided by theſe Angels, called *Genii*: ſo that if any misfortune befel a man, they would ſay that the matter was enterpriſed *Diis iratis, id eſt*, our *Genius* being diſpleaſed with us. *Virgil* calleth theſe bad Angels *Manes*, as it appeareth by that, *Quiſq; ſuos patitur manes, id eſt*, every man hath his evil Angel, *id eſt*, ſome misfortune. Theſe *Genii* were thought to be a middle Eſſence between Men and Gods. They are therefore called *Genii*, becauſe they have the tuition over us ſo ſoon as we are *Geniti*, *i. e.* born. It is moſt certain that old Authors uſed *Geno* for *Gigno*; whence *i Tully* ſaith, *Si mihi filius genitur*; and *k Varro*, *Antequam genat ſiliquas*: although every place had alſo his *Genius*, as hereafter ſhall appear. This opinion was the more confirmed by a viſion which appeared unto *l Brutus* in *Aſia* near unto the time of his death: for *Brutus* watching upon a certain night in his Pavilion, the candle being near ſpent, ſaw a fierce tragical perſon appear unto him, ſomewhat bigger than a man; and he preſently, being of an undaunted ſpirit, demanded whether he were a God or a man? To whom the viſion anſwered, *Brutus*, I am thy evil *Genius*, which haunteth thee; thou ſhalt ſee me at the City *Philippi* again: and the ſame viſion appeared unto him, as he was fighting at *Philippi*, which was the laſt fight that ever he fought. And becauſe *Juno* was wont to be invocated in the time of Childbirth, therefore many have thought that every man hath not his two Angels, but one Angel, and *Juno* to obſerve him: but it is agreed upon by beſt Authors that as the Angels or Spirits which did attend men were termed *Genii*, ſo thoſe which guarded women were termed *Junones*. This *Genius*, as often as he is underſtood for the good or evil *Angel*, which hath charge of a mans body, is painted in form of a man, as we read did appear to *Brutus*; though ſometime he is painted as a young boy, ſometimes as an old decrepit man, *m* but always with a crown of plane-tree, which therefore was called *Genialis arbor*: in the right hand he held a platter over an Altar

i Cic. l. 2. de orat.

k Varro Rei Ruſt. l. 1. c. 31.

l Plut. in Brut.

m Roſin. ant. l. 3. c. 14.

garniſhed with flowers; in the left he held a ſcourge hanging down. The ſacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odours, were ſignified all kind of pleaſures) certain proverbial ſpeeches have been occaſioned; as when we ſee a man given much to his pleaſure, and dainty feeding, we ſay he doth *indulgere genio, i. e.* pamper or make much of his *Genius*: on the contrary, he that is abſtemious, and debarreth himſelf of his pleaſure, and dainty feeding, is ſaid *defraudare Genium*, to defraud his *Genius*: and *genialis* ſignifieth jocund or pleaſant. *n* It was alſo the cuſtom after meals to have a cup paſs round the Table, much like unto our *poculum charitatis*, and it was called *poculum boni Genii*. *o* The *Grecians* had a like cuſtom, whence that cup was called by them, ἀγαθοῦ δαίμονος. But the reaſon why they would not ſacrifice unto their *Genius* by killing ſome hoſt, as they did to their other Gods, was, becauſe they judged it unfit to deprive any creature of his life upon that day, when they firſt began their life (for this ſacrifice was performed yearly by every one upon his birthday.) *Horace* notwithſtanding doth more than intimate the killing of a young pig in that ſacrifice.

n Vid. Eraſm. adag.

o Cœl. Rhod. l. 28. c. 6.

——— *cras Genium mero*
Placabis, & porco bimeſtri. Hor. *lib.* 3. *Od.* 17.

The other *Genius* which is ſuppoſed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral-rites due unto his Father *Anchiſes*, *Æneid. l.* 5.

——— *aditis cum lubricus anguis ab imis*
Septem ingens gyros, ſeptena volumina traxit.

And *Perſius*,

Pinge duos angues, pueri, ſacer eſt locus, extra
Meiite: id eſt, duos Genios.

Another ſort of Gods was ſuppoſed to have the keeping of

of mens houſes: *p* which they painted in form of a Dog, becauſe thoſe to whom the charge of houſes is committed ought to reſemble Dogs, that is, to ſeem fierce and angry towards ſtrangers, but gentle and kind to thoſe of the houſhold. Other properties wherein theſe *Lares* do reſemble Dogs, are recited by *Ovid. Faſt.* 5.

p Franc. Sylv. in orat. pro Sext. Roſc. Am.

Servat uterq; domum, domino quoq; fidus uterq; eſt,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diani aſuris,
Pervigilantq; Lares, pervigilantq; canes.

They were named *Lares*; and becauſe of the charge they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare, Horat.* in a little Cottage: *homo incerti laris, id eſt,* a man that hath no houſe to dwell in, *Sen. in Med.* And the cuſtom in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poor: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the courteſie-morſel, we ſay *Lari ſacrificat, id eſt,* he ſacrificeth to his houſhold-god.

LIB. II. SECT. II.

Of the Roman *Prieſts with ſome particular Gods.*

Auſus the ancienteſt of all the Kings in *Italy*, was the firſt that brought any form of Religion into *Italy*. He conſecrated Groves, gave names unto Cities, erected Temples, ordained ſacrifices, *&c.* From whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he inſtituted and appointed many other Ceremonies, which before were unknown to the Latines. After him *Æneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whoſe examples *Romulus* and *Numa* were incited to add many other kinds of holy Rites, and ſo at length reduced their whole Religion into a certain order, eſpecially *Numa*, who, that he might gain the more credit and authority to his new-invented ſuperſtitions, feigned that he had conference about them every night with the Goddeſs *Egeria*. My intent therefore is, to ſpeak firſt of the Gods in whoſe honour theſe holy Rites were performed, and then to deſcend unto the Prieſts, which were to perform them, ſhewing withal the Ceremonies they uſed in the performance.

CAP.

CAP. 1.

De Pane Lyceo, ſive Juno: de Lupercis & Lupercalibus.

PAn was ſuppoſed to be the God of the ſhepherds, and is *a* thus deſcribed: he is pictured naked, having horns in likeneſs of the Sun-beams, a long beard, his face red like the clear air, in his breaſt the ſtar *Nebris*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a Pipe, in the other a ſhepherds crook, and always is imagined to laugh. *b* He was worſhipped firſt in *Arcadia*, and there called the God *Pan Lyceus*, but afterwards he was had in great eſteem at *Rome*, *c* and in the honour of him certain ſacrifices and games called *Lupercalia* were ſolemnized by the *Romans*. *d* There he took the name of *Inuus*, or as ſome ſay *Junus*. Concerning the time when theſe ſacrifices were to be performed, it was upon the *e* unfortunate days of the month *February*, which hath his name *à februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth as much as a feaſt of Wolves, in a memorial that *Romulus* and *Remus* were nurſed by a ſhe-wolf. This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci*, began their courſe at the foot of mount *Palatino*, called by the *Romans*, *Lupercal*, *id eſt*, the place where the wolf nurſed *f Romulus*. The ceremonies were theſe; the hoaſt (being two Goats) was to be ſlain, and two Noble mens Sons were to be preſent, whoſe forcheads, being bloodied with the knives of them that had ſlain the Goats, by and by were to be dried up with wool dipped in milk. Then the young Boyes muſt laugh immediately after their foreheads were dry. That done, they cut the goat-ſkins, and made thongs of them, which they took in their hands, and ran with them all about the City ſtark naked (ſaying they

a Serv. in Virg. Ecl. 2.

b Feneſt. de ſacerd. c. 1.

c Feneſt. lib.

d Pomponius Lætus de Sacerd. cap. de Luper.

e Plutarch. in Romulo.

f Plutarch. in Romulo.

they had a cloath before their privities)and ſo they ſtruck with thoſe thongs all they met in the way. The young wives did never ſhun them at all, but were well contented to be ſtricken with them; believing it helped them to be with child, and alſo to be eaſily delivered. Moreover it is to be noted, that a Dog was ſacrificed at this time, becauſe there is a natural antipathy, or contrariety of nature, between the Dog and the Wolf: whereby *Romulus* thought to teſtifie his gratefulneſs unto the Wolf for her pains in nouriſhing him. The reaſon why the Prieſts ran up and down the ſtreets naked, was, becauſe that *Pan* the God of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a Wolf. Some Authors have obſerved three ſorts of the *Luperci*; ſome called *Fabiani*, ſome *Quintiliani*, from *Fabius* and *Quintilius* their Governours: the third ſort, which *g Roſinus* affirmeth to have been added in the honour of *Julius Cæſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in *h* another place, namely, that *Auguſtus Cæſar*, when he was chief Pontife, did reſtore thoſe games again, being formerly aboliſhed.

g Roſin. ant. l. 3. c. 2.

h Sueton. in Auguſt.

CAP. 2.

De Cerere, & ſacris ejus.

CEres, otherwiſe called *Eleuſina*, was honoured firſt among the *Græcians*, afterward among the *Romans*, as a Goddeſs which firſt taught men the skill of husbandry.

Prima Ceres ferro mortales vertere terram
Inſtituit. Virg. *Georg.*

Whence ſhe is ſometimes *metonymicâs* taken for corn, as *Credenda Ceres arvis*, *Ovid.* It is ſeed-time. She is called *Ceres i quaſi Geres, à gerendis frugibus*, from bearing fruit; becauſe, as ſome ſay, by *Ceres* is underſtood ſometimes

i Cic. l. 3. de nat. Deor.

ſometimes the earth it ſelf; whence alſo Δημήτηρ, being the Greek name of *Ceres*, is ſaid *quaſi* γῆ μήτηρ, *i. e.* the earth which is the common mother of us all. [k] She is painted in the habit of a Matron wearing a Garland of Corn, ſometime ſorrowful, with a lamp in her hand, as if ſhe were ſeeking out her daughter *Proſerpina* carried by *Pluto* into Hell: and ſometime with a handful of Corn or Poppy-ſeed. Upon the fifth of the Kalends of *April*, the *Romans* were wont to perform ſacrifices unto her, which they called *ſacra Græca*, *i. e.* the Grecian ſacrifices: as likewiſe they termed the chief woman which did perform them, *ſacerdotem Græcam*, *i. e.* the Greek Miniſtreſs, becauſe they were tranſlated into *Rome* out of *Greece* by *Evander*. The time of their ſolemnities was at the dawning of the day, and the Prieſts, which were only women, ran up and down with lamps in their hands in manner of mad women; into whoſe Temple none that was guilty of any fault committed, might enter: whoſe myſteries were to be buried in ſilence, and by no means to be babbled abroad. And as it is to be ſuppoſed, that was the reaſon why all Wine was forbad in this ſacrifice. So that hence [l] we ſay *Cereri ſacrificat*, he ſacrifices to *Ceres*, when he makes a feaſt without wine.

[k] Roſin. ant. l. 2. c. 11.

[l] Plautus in Aululatia.

CAP. 3.

De Potitiis, & Pinariis, Herculis ſacerdotibus.

HErcules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occaſion of the Herdſmens complaint brought unto *Evander* of him whom they accuſed to have ſlain their chief Herdſman *Cacus*, the Hiſtory being [m] thus: *Hercules* after his conqueſt over *Geryon*, brought away with him certain goodly Oxen, and as well to reſt himſelf, as to paſture his Oxen, he laid him down to ſleep in a green field near the River *Tiber*: In the mean while a certain Herdſman called *Cacus*, who hapned to come that way, and perceiving

[m] Serv. Æn. l. 8.

Hercules to be in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward; thinking that *Hercules* when he ſhould look his Oxen, and ſee the print of their footſtepts, would eaſily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, anſwering their fellows without, *Hercules* entred the Rock, and finding the Thief *Cacus* there with his Oxen, he killed him; by reaſon of which murther he was brought before *Evander*: and after a while known to be the *Hercules* of whom the Propheteſs *Garmenta* had foretold unto *Evander*, that he ſhould be a God, whereupon *Evander* preſently ſaluted him by the name of *Hercules* the Sun of *Jupiter*, and in honour of him caused an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more eſteem, two Noblemen well ſtricken in years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Prieſts to perform theſe Sacrifices; from whom ever after *Hercules* his Prieſts were called *Potitii* and *Pinarii*. Where by the way we muſt obſerve that *Pinarius* was not the ſirname of this Nobleman, but a name added unto him, intimating his and his ſucceſſors puniſhment, for not coming ſoon enough according to the time appointed by *Hercules*. For as[n] divers writers teſtifie, the entrails of the beaſt were almoſt eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in puniſhment of their negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entrails, giving them this name *Pinarii* at that time, from the Greek word πινία, which ſignifieth hunger.

[n] Ser. Æn.

CAP.

CAP. 4.
De Fratribus Arvalibus.

THis Colledge or Company of *Roman* Priests may be Englished the *Arval fraternity*; the number of them being twelve, eleven of them natural Bothers, sons to *Acca Laurentia*, *Romulus* his Foster-Mother; ° for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostiæ, quod antequam macterentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, beside the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being as P *Pliny* writeth, the first Crown or Garland among the Romans.

° Feneſt. de Sacerd. c. 3.

Hoſpin. de orig. Monach. c. 10.

P Plin. l. 17. c. 2.

CAP. 5.
De Sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curiæ*, he ordained out of each *Curia* two Parish-priests or Curates called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

honour of Priesthood, [q] but he was to be at the least fifty years old, of a life unspotted, and a body unmaimed. And over all these there was one which had chief rule, and therefore was called *Curio maximus*, the Bishop or chief Prelate: and these sacrifices were called *Curionia*.[r] Their sacrifice being ended, each Parish had a feast in a common Hall built for that purpose: it was called *Domus Curialis*, and sometimes *Curia*.

[q] Dion. Hal. l. 2.

[r] Diod. ibid.

CAP. 6.

De Auguribus, & eorum Collegio.

AMongst other kinds of foretellers, we read of three principally used in former time, namely *Aruspices*, *Auspices*, and *Augures*: all which we English Soothsayers, though the Latine words do import a main difference, worth our observation; all are alluded unto by *Ovid*.

Ovid trist. l. 1. Eleg. 2.

Hoc mihi non ovium fibræ tonitrusve siniſtri,
Linguave servata pennave dixit avis.

The *Aruspices* did divine or foretel things to come, by beholding the entrails of beasts sacrificed; whence they had their name, *ab aras inspiciendo*, from beholding the Altars. The *Auspices* did foretel things by beholding the flight of birds: so that *Auspices* are said *quasi avispices*, *ab aves aspiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures*, *ab avium garritu*, from the chirping and chatting of birds. These two last kinds of soothsaying have occasioned these and the like phrases, *bonis avibus*, or *auspiciis*, with good luck, *malis avibus*, *i. e.* with ill luck; and because they would begin [t] nothing *inauspicio*, *i. e.* without the counsel of the *Augures*, hence *Auspicari rem* hath been translated to begin a matter. The Colledge of the *Augures* at *Rome*, was first appointed by [u] *Romulus* himself, being very expert in soothsaying, there being at the first but three, namely one of each Tribe; (The word *Augur* being not taken in his own

[t] Fr. Sylv. in orat. pro Cluentio.

[u] Pomp. Lætus cap. de Augur.

own proper ſenſe and ſignification above mentioned: but generally, by the trope *Senecdoche*, ſignifying all kinds and ſorts of divining whatſoever, whether it were by obſerving the entrails of beaſts, the flying, ſcreeching, and chatting of birds, or thundring or lightning in the Heaven, or marking the rebounding of crums caſt unto birds, (which kind of divining was called *Tripudium.*) [x] *Servius Tullius* the ſixth *Roman* King, when he divided *Rome* into four local Tribes, *id eſt*, regions, or quarters, then did he add the fourth *Augur*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. [y] In proceſs of time *Quintus*, and *Cæus Egulinus* being choſen *Tribuni plebis*, *i. e.* Protectors of the Commons, obtained, that five other *Augures* ſhould be choſen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* ſhould never exceed the number of nine. [z] Notwithſtanding *Silla* being *Dictator*, added ſix more, inſomuch that their Colledge increaſed to the number of 15. the eldeſt of which was called *a Magiſter Collegii*, the Maſter, or *Rector* of the Colledge. The *Augures* excelled other Prieſts, in [b] this reſpect, becauſe if any of them had been convinced of any hainous crime, he did not loſe his office, neither was any other ſubrogated into his room, although the *Roman* cuſtom was, that if any other Prieſt had committed any notorious offence, he ſhould preſently be diſcharged of his office, and another choſen in his place. [c] The manner how the *Augur* did obſerve was this: He ſat upon a Caſtle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked ſtaff (called in Latine *Lituus*) in his hand, where ſitting in his ſoothſaying robe called *Læna*, and in Greek χλαῖνα παρὰ τὸ χλιάνειν *a calefaciendo*, from heating, becauſe it was well lined within, being garded on the out-ſide with purple and crimſon gards, having his head covered, and his face turned toward the Eaſt, ſo that his back was Weſt-ward, his right ſide South-ward, and his left North-ward. Being thus placed,

[x] Roſin. ant. l. 3. c. 8.

[y] Roſin. ib.

[z] Roſin. ib.

[a] Alex. Gen. dier. l. 5. c. 19.

[b] Alex. ib.

[c] Pomp. Lætus de Aug.

plac'd, he quarter'd out with his crooked staff the heaven into certain *templa*, *id est*, regions or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain payers called *Effata*, he proceeded in manner as followeth. But first, suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Lituus* being in his left hand, he reached forth his right hand, putting it upon *Numa Pompilius* his head, using this form of words, *Jupiter pater, si fas sit Numam Pompilium, cujus ego caput teneo, regem Romæ esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci, i. e.* If it be lawful for this *Numa Pompilius*, whose head I hold, to be K. of *Rome*, shew some manifest tokens within these reigons or quarters, which I have described. Then if he observed lucky signs and tokens, he presently pronounced *Numa Pompilius* King of *Rome*, if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the gods. Where by the way we must note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another, neither was any thing gainsaid by the appearance of the only evil token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prospera*, luckly, or *adversa*, unlucky; some from the manner of appearing, [d] and that was either wished, being call'd therefore *impetrativa*; or unwished, called *oblativa*; some from the diversity of things which offered themselves in time of divining, and so there were five distinct sorts: the first was by the observing of lightning and thunder from heaven, the second from the flying and chatting of birds; the third from bread cast to pullets or little chickens; the fourth from four-footed beasts, which either should cross the way, or appear in some unaccustomed place; the fifth from those casualties whereby the gods

[d] Serv. Æn. lib. 8.

gods do make their anger appear unto us. Of this ſort are thoſe voices which we hear we know not whence (as [e] *Cadmus* heard, when he overcame the Serpent) the falling of ſalt towards us at the table, the ſhedding of wine upon our cloaths; from which caſualties and the like, the *Augures* would pronounce either good fortune or bad to enſue. And theſe tokens were therefore called *Dira*, becauſe thereby *Dei ira nobis innoteſcit*, the Gods anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck, becauſe the givers right hand in beſtowing a benefit is oppoſite to the receivers left hand. Whence [f] *ſiniſtrum*, though in humane affairs it ſignifies as much as unlucky, yet in thoſe holy Rites of divining, *ſiniſtrum* is taken in a contrary ſenſe, as *Avis ſiniſtra*, good luck; *Intonuit lævum*, it hath thundred luckily, we ſhall have good ſucceſs; and it is ſaid, *à ſinendo*, becauſe the gods thereby do ſuffer us to proceed in our purpoſed projects. And therefore *Tully* ſaith, 1. *de divinatione*, *à ſiniſtra cornice ratum, & firmum Augurium fieri*, and in the law of the 12. tables it is ſaid, *Ave ſiniſtra populi magiſter eſto.* [g] The *Grecians* from hence in the judgement of *Lipſius* have called the left hand ἀριστερὸν from ἄριστον ſignifying beſt.

[e] Vox ſubito audita eſt neque erat cognoſcere promptum Unde, ſed audita eſt. Ovid. Met. l. 3. fab. 1.

[f] Serv. Æneid. lib. 2.

[g] Lipſ. Elect. lib. 2. cap. 2.

CAP. 7.
De Tripudiis & Pullariis.

THis kind of conjecturing is called *auſpicium coactum, quoniam neceſſe erat offa objecta cadere fruſtum ex pulli ore, cum paſcitur.* The word [h] *Tripudium* is uſed by a *ſyncopation* for *terripudium*, which is as much as *terripavium*, *id eſt*, a dancing or rebounding of any thing upon the ground: for *pavire* is the ſame with *ferire*. * Others ſay *Tripudium quaſi tertio pedum.* It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crumbs caſt to chicken in a coop or pen: whence the *Augur* from theſe pullets or chicken was called

[h] Cic. de divinat. lib. 1.

* Humbert in l. 6. Ep. fam.

led *Pullarius*, *id est*, a Bird-Prophet. *i* The manner in observing was this: as often as by this kind of conjecturing they desired to know the gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened they cast crumbs of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods: but if contrarily the chicken did hastily leap out of the coop, and eat so greedily the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing unto the gods, and encouraged the enterprizing of what they had intended cheerfully: and this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, [k] who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck; if otherwise they neglected the baits, then did it betoken some evil event.

i Alex. Gen. dier. l. 1. c. 29.

k Alex. ibid.

CAP. 8.

De Aruspicibus, Aruspicina, & Extispicino.

THis kind of Sooth-sayers, as they were called *Aruspices, ab aras aspiciendo*, from beholding the beast upon the Altar; so were they called *Extispices, ab extra aspiciendo*, from beholding the bowels or entrails of the beast, called in Latin *Exta*. In this kind of sooth-saying the *Aruspex* observed the manner as followeth; first, [l] whether the beast to be sacrificed came unto the Altar willingly, without plucking and haling; whether he died without much strugling, or lowd bellowing, at one blow

l Senec. Oed. *Act.* 1. scen. 2.

or

or many; whether any unlucky object were seen, or heard by them whilst they were sacrificing. Again, after the beast was slain, then would they observe, whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate or impostumated: moreover they would divide the bowles into two parts, the one they would call *partem familiarem*, from whence they would foretel what should befal themselves and their friends; the other they would call *partem hostilem*; whence they gathered predictions touching their enemies. Hence *Manto* in [m] *Seneca* describing the entrails of his killed Sacrifice, saith, *Hostile valido robore insurgit latus*, meaning by *hostile latus*, *partem hostilem*. Afterward when the Sacrifice was to be burned, they considered whether the flame of the fire was smoaky, whether the smoak rolled and tumbled in the air, whether it were of any continuance or no: for all these were unfortunate tokens, as the contrary did betoken a good and fortunate issue to their designments. These last which observed the fire and smoak were called by a more peculiar name *Capnomantes*, smoak-Augures, from the Greek word καπνὸς signifying smoak, and μάντις, *id est vates*, or a Sooth-sayer. The first instructions that the *Romans* received were from the *Hetrusci*, who (as they themselves say) received their knowledge from a little Boy, which they named *Tages*, the History being thus; [n] When the *Hetrusci* were plowing their Lands, upon a sudden up started this *Tages* out of one of the Furrows, using divers speeches unto the plow-men: but they being much affrighted at this sudden and strange vision, began with a loud cry to lift up their voices; upon occasion whereof many other people flocked thither, where he gave many good instructions concerning this kind of Soothsaying, which were presently recorded in Books, and practised afterward by the *Hetrusci*.

[m] Cel. Act. 2. scen. 2.

[n] Cic. de divinat. Indigenæ dixere Tagem, qui primus Hetruscam; Edocuit gentem casus apertire futuros. Ovid. Met. lib. ult.

CAP. 9.

De Flaminibus.

o Rosin. ant. l. 3. c. 15.
p Rex Anius, Rex idem hominum Phœbiq; Sacerdos. *Virg.*

THe Mitre or Head ornament which these Priests did wear, was called in old time o *Flama*, whence the Priests took their names *Flamines*. The p custom amongst the *Grecians*, as likewise afterwards amongst the *Romans* was, that the King should as well perform ceremonies and holy rites of Religion, as civil businesses. But *Numa Pompilius* perceiving that forrain Wars did oftentimes occasion the Kings absence; insomuch that those Religious ceremonies which he himself personally should perform, were of necessity sometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine service unto *Jupiter*, *Mars* and *Romulus*, which he himself otherwise ought to have performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

Sive quod hasta quiris priscis est dicta Sabinis,
Bellicus at telo venit in astra Deus.
Sive suo regi nomen posuere Quirites,
Seu quia Romanis junxerat ille Cures.

In process of time twelve others chosen from the Commons were added to these, but with this note of distinction, that the three first were had in great esteem, and were called *Flamines Majores*, high Priests; the other of less note, called *Flamines minores*, inferiour Priests; the chief of all was the *Flamen Dialis*, *Jupiters* high Priest. And whereas every one did wear a certain Bonnet in form of a Mitre, which sometimes was called *Pileum*, sometime (by the figure *Synecdoche*) *Apex* (whereas *Apex* doth properly signifie only the top of the Bonnet) q none might wear *Albo-galerum*, *i. e.* a white Mitre, but only *Jupiters* Priest, and that was to be made of white Sheepskin, after the Sheep had been sacrificed. Whatsoever malefactor could escape unto this Priest, he should not be punished:

f Alex. Gen. dier. l. 6. c. 12.

puniſhed that day. None was eligible into this office, but he that was married; neither was it lawful for him to marry twice, but if his wife died *Flaminio abibat, i. e.* he reſigned his ſacerdotal office. To him was permitted a rich robe of ſtate, and a Curule chair; none might fetch fire out of his houſe, unleſs it were to perform ſome Sacrifice therewith, [r] none might barb or pole him but a free man, and that with brazen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe Time added many other *Flamines*, namely ſeve- ry god one; yea ſometime thoſe threeſcore Pariſh-Prieſts which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had alſo their *Flamines*. [t] Moreover we muſt note that thoſe Prieſts wives were called *Flaminicæ*; Their Miniſters (for they were wont when they went to Sacrifice, to take a boy or maid with them) *Flaminii*, or *Flaminiæ*, and the chief *Flamen*'s dwelling houſe was called *ædes Flaminea*, or *Flaminia*. But as it ſeemeth probable, *Numa Pompilius*, and ſo the other Kings ſucceeding him, did ſtill reſerve their right and authority in holy matters ſo far, that they would inſtruct other inferiour Prieſts, yea and ſpecially perform ſome ſpecial Sacrifices themſelves: whereupon after that the Kings authority was abrogated amongſt them, then that theſe Sacrifices might be continued, they choſe a certain Prieſt, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-pontiffe, and him they called *Rex ſacrificulus*, and *Rex ſacrorum*, the King Prieſt. To him once every year the Veſtal Nuns repaired, and uſed this form of words, [u] *Vigilaſne, Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy days, and to provide all things neceſſary for publick Sacrifices. He was to inſtruct thoſe that ſought unto him, the cauſes of the holy days, and tell them what was lawful and unlawful every month; and upon the fifth of the *Ides* of January he Sacrificed a *Ram* to *Janus*.

[r] Serv. Æn. l. 1.

[s] Feneſt. de ſacerd. c. 5.

[t] Alex. Gen. dier. l. 6. c. 12.

[u] Serv. in Æn. 10.

He was likewiſe wont to offer up a Sacrifice in the *Comitium* or great Hall of Juſtice, which being finiſhed, he ran as faſt as he could out of the Market-place without delay. His wife was called *Regina ſacrorum*, the Queen-Prieſteſs, and was wont upon the Kalends of every moneth to Sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, ſive Mavorte, & Saliis Palatinis Marti dicatis.

Mars otherwiſe called *Mavors* by the figure *Epenthesis*, as we ſay *Induperator* for *Imperator*, was reputed the God of war, and ſo *Metonymicè* is uſed for War, as *vario Marte pugnatum eſt*, the battel was doubtfull; *proprio Marte* by ones own ſtrength and labour. He was the ſon of *Juno* only, without company of her Husband: for when *Juno* was greatly diſpleaſed with her ſelf, that *Jupiter* by ſtriking his head, without the company of a woman did bring forth the goodeſs *Minerva*, ſhe by the counſel of the goddeſs *Flora* touched a certain flower in the field of *Olenius*, by vertue whereof ſhe immediately conceived the God *Mars*. This god, by reaſon of his dominion in War, the *Romans* painted fiery, ſometimes in his Chariot, ſometimes on Horſeback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was ſometimes the picture of a Cock joyned with him, to ſhew the Vigilancy and carefulneſs that Souldiers are to uſe. He was called [x] *Gradivus à gradiendo*, from marching in battell againſt his enemies. He had a Temple without the City, whence he was called *Extramuraneus*. [y] Near unto this Temple, without the gate *Capena*, did ly a ſtone of great note, which upon great droughts the people would bring into the City, and preſently rain would follow; whereupon it was called the Rainſtone, *Lapis manalis, à manando*. *Numa Pompilius* in the honour of *Mars*, ſirnamed *Gradivus*, ordained twelve dancing

[x] Roſin. ant. l. 2. c. 10.

[y] Roſin. ibid.

dancing Priests, called *Salii à* [a] *saliendo* from dancing; which number afterward we find to have been doubled by *Tullus Hostilius*, in the War against *Fidena*, a town of the Sabines. The former twelve being called *Salii Palatini* from the Palatine mount, where they did begin their maurisk: the other *Collini*, from the Hill where their Chappel stood; [a] and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24. Priests. [b] The occasion of their first institution was this; Upon a certain time, in the reign of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, insomuch, that no sacrifice, or holy Offering could remove it: at that time a certain brazen Target or Scutcheon, called in Latine *anea pelta*, or *ancile*, big at both ends, but cut like an half Moon on each side, fell from heaven into *Numa* his hands, with a certain voice promising all health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning workman, by the appointment of *Numa*, made eleven other *ancilia* so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12. Priests had the custody and keeping of them committed to their charge, and in the month of *March*, every year they apparelled themselves with a party-coloured Coat, called *tunica versicolor*, girt close to their body with a belt, or sword-girdle, & a breastplate of harness, called *aneum tegmen*, upon that, and a robe of estate, called *trabea*, clasped about them uppermost of all. Upon their heads they did wear *apices*, *i. e.* Caps [c] much like unto the *Persian* Bonnets called in Greek μιτραι, or τιαραι. They did somewhat resemble our head pieces in war, made close unto the head, with a crest of cloath upon the top, whence some have called them *Galeati*. They being thus apparelled, danced about the *Forum* or Market place, and the Capitol, with short swords by their side, a Javelin in their right hand, and their *ancile* in the

[a] Plutarch in Num. 1.

[a] Dion. Hal. lib. 2.

[b] Plutarch in Numa.

[c] Dion. Hal. lib. 2.

the other; using certain Songs, either of the gods, and those they called *Januales*, *Junonii*, and *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *exare i. e.* nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutchions, was often called upon in those Songs. Upon their festival days they had excess of cheer, whence [d] *Horace* hath used *Saliares dapes*, to signifie dainty fare.

[d] Horat. l. 1. Ode 37.

CAP. 11.

De Fœcialibus, & Patre patrato.

These *Fœciales* were Officers at Arms, or Heralds, to denounce war, or proclaim peace, appointed thereunto at first [e] by *Numa Pompilius*. [f] The chief part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust War: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* go as Embassadors unto them, perswading and exhorting them to yield the Romans their right: but if they continued thirty days obstinate, refusing to yield to that which should be just and right, then did they presently denounce War against them, casting forth a dart in token thereof; which denunciation was [g] called *clarigatio, a clara voce qua utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Arms should [h] turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custome we say of one that challengeth another into the field, *Arietem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the gods from him. The chiefest of them was called *Pater patratus*, a perfect Father: for he only could be *Pater patratus*, which had both children of his own, and his Father also alive. They were

[e] Pomp. Lætus de sacer.
[f] Dion. Hal. lib. 2.
[g] Serv. Æn. lib. 2.
[h] Vid. Eras. Adag.

were called *Fœciales*, *à fœdere faciendo*, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the *Romans* in old time [i] did call *Fides*, as *Ennius* and *Pighius* witness; whence these *Fœciales* were termed also *Fidei Flamines*.

[i] Pighius Se. prim. l. 1.

CAP. 12.

De Duumviris, & Decemviris, & Quindecem viris, Sacris faciendis, item de Sibyllis.

THis Priesthood had its first institution from *Tarquinius Superbus*, whose office was as well to expound as to keep the Oracles of those ten Propheteſſes so famous throughout the world, called *Sibyllæ*. Concerning whom [k] *Munster* hath these words: In times past there came a strange woman to *Tarquinius* the King, offering nine Books full of the *Sibylline* Oracles to be sold: but *Tarquinius* thinking the Books too dear, refused to buy them; the woman departing, burned three of these Books and came the second time unto *Tarquinius*, demanding as much for those six Books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as she asked at the first for all nine. Then began *Tarquinius* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signs observed, that the King had refused some special goodness sent from the gods; and for the Books that remained, they advised that the woman should have what she asked. As soon as the woman had delivered her Books, she presently vanished, and was never seen again; only warning them, to keep the Books as safe as possible they could. For the safe keeping of these *Tarquinius* chose two of the Noblemen, or *Patricii*, calling them *Duumviri*, appointing them, as well by study to expound, as with

[k] Munst. in sua Cosmog. l. 2.

with care to keep thoſe Oracles. In proceſs of time, the people obtained, that ten ſhould be appointed to this office, [l] five of them being choſen out of the Commons, and five out of the Nobles: and then they were called the *Decemviri*. Afterward by L. *Sylla*, as it is thought, five more were added, ſo that they were then called the *Quindecimviri*: nay the number was increaſed by *Sylla* unto forty, [m] as *Servius* thinketh, but ſtill called by the name of *Quindecimviri*. Of theſe women that had the ſpirit of Prophecie, ten were very famous: the firſt was called *Perſica*, the ſecond *Libyca*, the third *Delphica*, the fouth *Cumæa*, the fifth *Erythræa*, the ſixth *Samæa*, the ſeventh *Cumana*, the eighth *Helleſpontæa*, the ninth *Phrygia*, the tenth *Tiburtina*: They all propheſied of the incarnation of Chriſt. The place where theſe Books were kept, was within the Capitol under ground in a Cheſt of ſtone, where they remained ſafe, until the burning of the Capitol, at which time they alſo were burned. Notwithſtanding many of the Prophecies have been known, partly by tradition, and partly being taken out of other copies in other countries. One of the Prophecies concerning our Saviour Chriſt, was uttered by *Sibylla Delphica* in manner as followeth: [n] *Naſcetur Propheta abſque matris coitu ex utero ejus*, that is, There ſhall be a Prophet born without any copulation of the Mother, even out of her womb. It was ſpoken at *Dlephos*. All their Prophecies were of that certainty, that when we would aver any thing to be undoubtedly true, we uſe to ſay, it is *Sibyllæ folium*, as true as *Sibylla*'s Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fierceneſs of the wind did oftentimes ſo ſcatter, that they could hardly be brought in order again: inſomuch that when we would ſhew the great difficulty of bringing things in order, we may uſe [o] *Politian* his words, *Laborioſius eſt quam Sibyllæ folia colligere*, it is eaſier to gather *Sibylla*'s leaves. This name *Sibylla* is not a proper name, but an appellative,

l Feneſt. de ſacerd. c. 13.

m Serv. Æn. lib. 6.

n Mun. in ſua Coſm. lib.

Credite me vobis folium recitare Sibyllæ.

o Epiſt. l. 2. epiſt. 1.

tive, common to all women endowed with the ſpirit of Prophecie, taking their denomination from *p* πὰς, which is in the *Æolick* dialect the ſame that Θεὸς, God, and βελὴ, *i. e.* counſel, becauſe they did open and declare the counſel and determination of God unto the people. It appertained alſo unto theſe *Quindecemviri* above-mentioned to ſee that ſacrifice, and divine ſervice, that ſupplications and proceſſions, expiations, and all ceremonial rites were duly performed.

p Serv. Æn. l. 6. πὰς enim Deos, non Θεὸς: & conſilium non λεθὴν, ſed βελὴν, appellabant. Æolico genere ſermonis. Lact. de falſa religione, l. 1. c. 2.

CAP. 13.

De Bona Dea, & Sacris ejus.

THis Goddeſs which is ſo famous by the name of *Bona dea*, is the Globe of the earth: which is therefore termed *Bona dea*, the good Goddeſs, becauſe we reap ſo many good things from the earth. She is called alſo *Ops*, the helping Goddeſs, *ab ope*, from help, becauſe by her help we live. She is called *Fatua* and *Fauna*, *i. e.* the Goddeſs of ſpeech, becauſe young children do never ſpeak until they are able to go, and ſo have touched the earth. The *Grecians* called her γυναικεία θεὰ the female Goddeſs, becauſe that no male might be admitted to her ſacrifices; nay the very pictures of men were at that time to be covered. The inner room where her ſacrifices were, was called τὸ γυναικῶον the place for womens aſſemblies. *q* Thoſe that were chief in theſe ſacrifices, were the Veſtal Nuns. This good Goddeſs was ſuppoſed to be the Wife of *Faunus*, and upon a time to have been taken drunk with wine by him: for which fault *Faunus* was ſaid to have beaten her to death with Rods of Myrtle tree; but afterward being ſorry for that he had done, in amends he made her a Goddeſs, and as it were ever after deteſting the Myrtle tree, he hallowing all other herbs and flowers to be uſed in theſe ſacrifices forbad the Myrtle tree. Some ſay ſhe was ſo chaſte, that ſhe was never ſeen by any man but by her husband; and in reſpect of

q Cic. orat. de Aruſp. reſponſis.

her chaſtity, the Myrtle tree is forbid, becauſe it was conſecrated to *Venus*: but whereas in this ſacrifice they uſed wine, they called it not by the name of wine, but milk or honey; *r* whence they called the veſſel wherein the wine was put *Amphoram mellariam*, *i. e.* the honey veſſel. This ſacrifice became very famous by reaſon of *Clodius*, who being in love with *Pompeia*, *Julius Cæſars* wife, came unto theſe ſacrifices in womens apparel, and was found out by *Aurelia*, *Julius Cæſars* Mother. This *Clodius* became ſo infamous for this, and other his adulterous pranks, that he occaſioned a common proverb amongſt the *Romans*, *Clodius accuſat Mœchos*, anſwerable to which our Engliſh Proverb is, One Thief accuſeth another.

r Alex. Gen. dier. l. 6. c. 8.

CAP. 14.

De Cybele, & Sacerdotibus ejus.

THe Goddeſs *Cybele*, or rather *Cybelle*, was in her infancy expoſed unto wild Beaſts, upon the Hill *Cybellus*; where ſhe being nouriſhed by the wild Beaſts, afterward became a woman of admirable beauty, and being found by a Shepherds wife, was brought up by her as her own child, and called *Cybelle*, from the Hill *Cybellus*. She excelled in natural gifts, and was the firſt that uſed a Taber and Pipe, and Cymbals among the Greeks. Moreover ſhe tenderly loved children, and therefore was called *magna mater*: ſhe was alſo called *mater deorum*, the Mother of the Gods;

Ipſa deum fertur genetrix Berecynthia. *Virg.*

She was called *Rhea à ῥέω*, to flow, becauſe ſhe doth flow and abound with all kind of goodneſs. She was alſo named *Peſſinuntia*, from the City *Peſſinus* a Mart-town in *Phrygia*, where ſhe had a Temple. Moreover, ſhe was called *Berecynthia*, from the Hill *Berecynthus* in *Phrygia*, where ſhe was worſhipped. Her Prieſts were called *s Galli*, and their chief governour *Archi-Gallus*; they took their name from a certain River in *Phrygia*, called *Gallus*; of which

s Pomp. Læt. de ſacerd.

which whoſoever drank, he became ſo mad, that he would preſently geld himſelf, (as in truth all her Prieſts were enjoyned to geld themſelves with a fiſh ſhell) the original of which cuſtom is rendred thus: *Cybelle* loved a young man of *Phrygia* called *Atys*, and him ſhe appointed chief overſeer of her ſacrifice, upon condition that he would keep himſelf chaſte perpetually: But he not long after deflowred a Nymph, for which fact *Cybelle* bereft him of his wits and underſtanding, ſo that he in his madneſs did geld himſelf, and would have killed himſelf alſo, *t* had not the gods in their commiſeration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Prieſts were gelded. Every year the *Prætors* did ſacrifice unto this Goddeſs. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, choſen for that purpoſe: Which according to the manner of their country being apparelled with a party-coloured garment, called in Latine *Syntheſis*, or *Amictus variegatus*, and carrying the Picture of their Goddeſs about with them in the ſtreets, they ſtruck their breaſt with their hands, keeping tune with the Tabers, Pipes, and Cymbals, which other people following plaid upon. The Prieſts were alſo called *Corybantes*, from one *Corybantus*, which was one of her firſt attendants; and hereupon we call the Cymbal *æra Corybantia*. In this manner dancing about the ſtreets, they begged mony of the people whom they met; and hence were they named *Cybelle* her collectors, or her *circulatores*, *id eſt*, Juglers. Some called them *μητραγύρτας* from *μήτης*, which in this place ſignifieth *Cybelle*, called the great mother, and *ἀγύρτης*, a begger or gatherer of alms. *u* Others have called them *Mitricia*: But by what name ſoever they were called, the place was ſo infamous by reaſon of their drunkenneſs, and incivility uſed at theſe times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleium*, *Cybelle*

t Cybellius Ætys Exuit hac hominem truncoq; induruit illo. *Ov. Met.*

u Roſin. ant. l. 3. c. 27.

belle her Jugler. Neither was it lawful for any free-born to undertake that office.

CAP. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly tranſlated a Biſhop or Prelate, being called *Pontifices* in Latine, as alſo Pontifes in Engliſh, from one part of their office, which was to have the overſight of a great wooden bridge, called in Latine *Pons ſublicius*, being ſo great, that Carts and waines might paſs over it, having no arches to uphold it, but only great piles and poſts of wood : *x* and that which is moſt remarkable in it, was that it was joyned together only with wooden pins, without any iron at all. Others are of opinion, that they were termed *Pontifices quaſi Potifices*, from *potis* and *facio*, of which opinion *Lucan* ſeemeth to be, according to that, *Pontifices ſacri quibus eſt commiſſa poteſtas*. Concerning the *y* number of them, only four were appointed by *Numa*, all which then were to be choſen out of the *Patricii* : afterward four more were added out of the Commons. Theſe were called *Pontifices majores*, or chief Pontifes, to diſtinguiſh them from ſeven other, which afterward *Sylla* added, and *z* called them *Pontifices minores*, inferiour Pontifes. The whole company of them was called the Colledge of Pontifes. This Colledge was priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all queſtions concerning Religion, as well between their Prieſts as between private men : they had authority to puniſh any inferour Prieſt, if he either detracted or added unto thoſe Religious Rites which were preſcribed unto him. They had their Pontife, whom they called *Pontificem Maximum*. Theſe Pontifes were wont to exceed in their diet, inſomuch that when the Romans would ſhew the greatneſs of a feaſt,

x Plutarch in Numa.

y Feneſt. de ſacerd.

z Roſin. ant. l. 3. c. 22.

feaſt, they would ſay it was *Pomifica cœna, i. e.* according to our Engliſh phraſe, a feaſt for an Abbot. *Cœna adjicialis* is taken for the ſame, *a Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould have been printed *Cœna aditialis*, underſtanding hereby a ſolemn feaſt made by Magiſtrates *in aditu honoris*, at their entrance into their Office, and at their day of inauguration.

a Lib. 4. de magn Rom. c. 9.

CAP. 16.

De Epulonibus.

THe Pontifes in old time appointed three men, whom they called *b Trium-viros Epulonum*, (from *Epulum* a feaſt) to have the overſight of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinque-viri*, and at length *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3. cap.

CAP. 17.

De Titiis.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed Sooth-ſaying; they were called *c Titii* from the name of the birds which they obſerved; which in Latine were called *Titia*.

c Pancirol. l. rerum deperdit. c. de mole Hadriani.

CAP. 18.

De Virginibus Veſtalibus.

NEar unto *Caſtors* Temple, ſtood the religious Houſe or Nunnery, dedicated to the Goddeſs *Veſta*: where at the firſt were four, after ſix Virgins, or Votaries elected, whoſe office was chiefly to keep the ſacred fire; the extinction whereof proved ominous, and did portend ſome evil event ſhortly to happen. And therefore for their negligence herein, as for all other ſmall faults, they being had into a dark corner, ſtripped naked, and a cur-

a curtain drawn half way over them, the chief Pontife ſcourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the Sun beams: for which purpoſe they had certain inſtruments named *c* σταφεία, which were formed in the manner of a *pyramis*, but hollow; ſo that the beams being collected within the circumference, and meeting in the *vertex*, did eaſily kindle any combuſtible matter put into it; but chiefly if the matter was of black colour; becauſe, as Philoſophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteneſs doth diſperſe them. A ſecond part of their office was to work reconciliation between parties offended, as appeareth by *d* Suetonius, where we may read, that by their interceſſion *Sylla* was reconciled to *Caſar*. They were choſen into this place between the ſixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years ſpace, ten years to learn their ceremonies and myſteries, ten years to exerciſe them, and ten years to inſtruct others: within which ſpace if they had ſuffered their bodies to be defiled, they were to undergo that fearful puniſhment * aforementioned. But theſe thirty years being expired, marriage was lawful for them; ſo that they laid aſide their ſcepters, their fillets, and other their ſacerdotal ornaments. Notwithſtanding thoſe which did marry, in the end died fearful deaths: whereupon they choſe rather to abſtain commonly. The *Romans* had them in great honour, ſo that they never walked abroad, but with an iron ſcepter in their hands, and whatſoever maleſactor met them (if the Nun would take her oath it was by chance) he eſcaped puniſhment. They were named *Veſtals* from their Goddeſs *Veſta*, which word (as *e Munſter* writeth) is derived from the Hebrew *Radix* ſignifying fire. The eldeſt was called *Maxima Veſtalis Virgo*, *i. e.* the Lady Prioreſs, or chief governeſs.

c Plutar. in Numa.

d Suet. in Julio.

* Vid. ſup. p. 14.

f Munſt. in ſua Coſmog. l. 2. c. 9.

CAP.

CAP. 19.

De veterum ſacrificiis, & ritu ſacrificandi.

WHatſoever was burnt or offered up unto the Gods upon an Altar, it had the name of a ſacrifice, and ſometimes it was called *Victima, quod victa ad aras ſtabat*, becauſe the Beaſt to be ſacrificed ſtood bound unto the Altar; ſometimes *Hoſtia*, from an obſolete verb *Hoſtio*, which is to ſtrike, becauſe certain under-officers called in Latine *Popæ* (ſtanding by the Altars, all their upper part naked, and a Laurel-Garland upon their head) did *Hoſtiare victimam, i.e.* ſtrike down and kill the ſacrifice. Others are of opinion, that this name *Hoſtia* is taken from *Hoſtis* an enemy, according to that of *Ovid*, *Hoſtibus à domitis, Hoſtia nomen habet*; becauſe either before war, to procure the Gods favour, or after war, in token of thankfulneſs, they did *hoſtium ferire, i.e.* offer up the ſacrifice. The ſecond difference of ſacrifices hath been occaſioned in reſpect of the time, and ſo they have been called *præcidaneæ*, or *ſuccidaneæ, quaſi præcedaneæ & ſuccedaneæ*. Thoſe ſacrifices which were offered up the day before any ſolemn ſacrifice, were called *præcidaneæ hoſtiæ*, fore-ſacrifices, as we Engliſh *præcurſorem*, a fore-runner: which fore-ſacrifices if by any token they found unlucky, then would they offer up a ſecond ſacrifice which they termed *hoſtiam ſuccidaneam*; and becauſe theſe ſecond ſacrifices were to be offered only inſtead of the other, when they were unlucky or faulty, hence hath *Plautus* uſed this ſpeech, *meum tergum ſtultitiæ tuæ ſubdes ſuccidaneum?* Muſt I be whipped for thy fault? The manner of ſacrificing was as followeth; Some certain days before any ſacrifice was to be performed, the Prieſt was wont to waſh his whole body, *f* eſpecially his hands and feet, which if he had not waſhed, the ſacrifice was accounted polluted: and alluding unto this cuſtome, we ſay, a man doth

f Vid. Eraſ. Adag.

doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterpriſeth any buſineſs without due reverence or preparation thereunto.

Μηδὲ πρὶν ἐξ ὕδατος Διὶ λείβειν αἴθοπα οἶνον
Χερσὶν ἀνίπτοισιν. *Heſiod.* Ἔργα καὶ ἡμέρ.

Moreover, the Prieſt was to abſtain from his Marriage-bed, as likewiſe from divers kinds of meats, and at the time of his going to ſacrifices, either himſelf or ſome inferiour Sexton going before him with a rod or wand in his hand (called *commentaculum*) *g* uſed this form of words unto the people, *Hoc age*, attend this you are about: which cuſtome ſeemeth to have had its original from the *Grecians*; For before the time of ſacrifice, the *Grecian* Prieſt uſed almoſt the like ſpeech unto his people, as τὶς τῆδε, *i. e.* who is here? the people anſwered, πολλαὶ κ' ἀγαθοὶ, *i. e.* many men and good. After this preparation, then did the Prieſt, laying his hands upon the Altar, rehearſe certain Prayers *h* unto the God *Janus*, and the Goddeſs *Veſta*, becauſe the *Romans* were perſwaded, that without their interceſſion, they might not have acceſs unto the other Gods: his prayer being ended, then did he lay *i* upon the beaſts head a little Corn, together with a Cake made of Meal and Salt, called in Latine *Mola*, k *Mola erat far toſtum, ſale aſperſum.* From this ceremony the act of ſacrificing hath been termed *Immolatio.* After this the Soothſayer drank wine out of an Earthen or Wooden Chalice, called in Latine *Simpulum*, or *Simpuvium.* *l* It was in faſhion much like our Ewers, when we pour water into the Baſon. This Chalice was afterward carried about to all the people, that they alſo might *libare*, *i. e.* lightly taſte thereof, which Rite hath been called *Libatio.* Now every one having taſted thereof, the reſt of the Wine, with Frankincenſe mixt in it, was to be poured upon the Beaſts head, *m* between the horns; one crying out with a loud voice, *Macta eſt hoſtia*, i.e. *magis aucta*, more increaſed and made more pleaſing unto the Gods, as *Virgil* ſaith, *Macte nova virtute*

g Plutarch. Numa.

h Serv. Acc. lib. 1.

i Pancirol. l. rerum deperdit. c. de ſale Ammoniaco.

k Textor. in ſua officina, Sparge ſalſa colla taurorum mola. Sen. Oedip. Act. 2. ſcen. 2.

l Pancir. lib. rerum deperdit. c. de Ammoniaco ſale.

m Media inter cornua fundit. Virg. Æneid.

virtute puer, i. e. O good child which increaſeſt in virtue. And hence, even from this term, we may conjecture that the word *Macto*, which ſignifieth to kill, and ſometimes to Sacrifice, hath had its original, becauſe they did immediately after that voice, *mactare hoſtiam*, that is, ſlay the Sacrifice, and that was done in this manner; *n* Firſt the Prieſt did pluck off ſome of the Beaſts hairs between the Horns, and caſt them into the fire, calling them his *prima libamina, i. e.* his firſt offerings: Then did he turning his face towards the Eaſt, draw a long crooked Knife upon the Beaſts back, commanding his under officers, (which I called *Popæ*, others *Cultarii* from their Knife; *Victimarii*, from the Hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroak, often uſed this word *Agon*, for *Agone, i. e.* Muſt I to my work?) to kill the Beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flay or skin the Beaſt, others waſhed it. Anon, ſome Soothſayer or Prieſt did obſerve the entrails, turning and winding them with a knife, which was called *Seceſpita à ſecando*: for he might not touch them with his hand, they conceiting that if the Sacrifice had proved polluted, his hand would then have periſhed. Now after the Soothſayer or Prieſt had ſufficiently turned the entrails, and found no ill token therein, then did thoſe *Popæ* or Church-butchers, cut off from every bowel ſome portion, which after they had rolled in barly meal, they ſent it in baskets to the Prieſts, and the Prieſts taking it up into a broad charger or platter, called *diſcus*, or *lanx*, laid it upon the Altar, and burnt it, and *o* this was properly termed *litare* or *reddere, i. e.* to ſatisfie by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common Feaſt; where as they were eating they ſung Hymns and Songs in the praiſe of their Gods, and playing on Cymbals, they danced about the Altars, intimating thereby, that there was no part of their body,

n Roſin. ant. l. 3. c. 33.

o Joac. Camerar. pro Flac.

but should be imployed in the service of their gods. Now until all their Ceremonies and Mysteries were finished, it was not lawful for any to tast of this feast: insomuch that we since have used to check a glutton, or greedy-gut which cannot abstain from his meat till grace be said, in this manner, *Sacra haud immolata devorat.*

CAP. 20.

De Nuptiis, & nuptiarum renunciatione.

SEeing that Marriages and Burials have such dependance upon the Priests, it will not be amiss to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come unto the solemn Ceremonies used by the *Romans* in their Marriages, we will first shew the manner of their contracts, which were called by the *Romans*, a *Sponsalia à spondendo*, because in their contracts each did promise other to live as man and wife. Now the manner of contracting was commonly thus: They did for the greater security, write down the form of the contract upon tables of record, as appeareth by *Juvenal, Sat.* 6.

a Salmuth. in Pancirol. l. rerum deperdit. cap. de nuptiis.

Si tibi legitimis pactam, junctamq; tabellis
Non es amaturus.

These tables were also sealed with the signets of certain Witnesses there present, who were termed from their act of sealing *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothsayer, and the woman another, with whom first they would consult. Whence *Juvenal, Sat.* 10.

——— Veniet cum signatoribus auspex.

The token or sign which these Soothsayers in time of observing accounted most fortunate, was a Crow: b *Ea enim cornicum societas est, ut ex duobus sociis altera extincta, vidua altera perpetuo maneat.* The man also gave in token of good will, a ring unto the woman, which she was to wear upon the next finger unto the little finger of the left hand,

b Alex. Gen. dier. l. 2.

hand, *c* becauſe unto that finger alone, proceeded a certain artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its derivation *à nubo*, *d* which verb in old time ſignified to cover: the cuſtom being, that the woman ſhould be brought unto her husband with a *e* yellow vail (called *Flammeum*) caſt over her face. Again becauſe of the good ſucceſs that *Romulus* and his followers had in the violent taking away of the *Sabine* women, *f* they continued a cuſtom, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her Mother, or the next kin. She being thus taken away, her husband did diſſever and divide the hair of her head with the top of a ſpear, wherewith ſome Fencer formerly had been killed. This ſpear was called by him *Haſta cælibaris*, *g* and the Ceremony did betoken, that nothing ſhould diſ-joyn them but ſuch a ſpear, or ſuch like violence. The next day after the marriage, a ſolemn feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry; this feaſt they called *Repotia*. We muſt note, that *h* three manner of ways a woman became a mans lawful wife: *Uſu*, *Confarreatione*, *Coemptione*. A woman became a mans lawful wife, *Uſu*, *i. e.* by preſcription or long poſſeſſion, if that ſhe were wed with the conſent of her overſeers, and ſo did live with a man, as with her lawful husband, a whole years ſpace, *nullo interrupto uſu*, *i. e.* if ſhe being not abſent from him three nights in the whole year: and ſome have thought, that the counterfeited violence in taking away the Maid from her friends, was uſed only in this kind of Marriage. A woman became a mans wife *confarreatione*, *i. e.* by certain ſolemnities uſed before a Pontiffe, or chief Biſhop, when the woman was given unto the man uſing a ſet form of words, ten Witneſſes being preſent, and a ſolemn Sacrifice being offered, at which the couple married ſhould eat of the ſame barley cake which formerly had been uſed in the Sacrifice. Which Sacrifice was termed, *à farre*, *confarreatio*, and the marriage

c Aul. Gel.

d Roſin ant. l. 5. c. 37.

e Plin. l. 21. c. 8.

f Sig. de Jur. Rom. l. 1. c. 9.

g Salmuth in Pancirol. lib. rerum de perdit. cap. de nuptiis.

h Boeth. Topicor. 2. vid. Cœl. Rhod. l. 28. c. 17.

i Sig. de jur. Rom. l. 1. c. 9.

it self *Farraciа*, *k* and ſometimes *Sacra*, ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife *Coemptione*, *i. e.* by buying and ſelling, when the woman did under a feigned form of ſale buy her husband, by giving him a piece of coyn. *Veteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant; atq; unum quidem, quem in manu tenebant, tanquam emendi cauſa marito dare.* *l* To theſe three ſome teach, that a fourth ſort of marriage was in uſe among the *Romans*: Namely, when a woman became a mans wife, *Sortitione*, by a kind of Lottery: and of this they ſay, *m Sueton.* ſpeaketh. *n* In that kind of marriage which was *per Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſt and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priſcus*; from whence ſprang a cuſtom among them, that the new married wife, when ſhe was brought home unto her husbands houſe, was to uſe this Proverb *Ubi tu Caius, ibi ego Caia*, by which word ſhe ſignified, that ſhe was now owner of her husbands goods, as well as himſelf: and therefore *Eraſmus* hath expounded that ſaying by theſe words, *Ut tu dominus, ita ego domina*; *o* And ſhe that was thus married *per Coemptionem*, was properly called *Mater-familias*. *p* If any of theſe Ceremonies were omitted, then was the marriage termed *Nuptia inuſtæ*, in which ſenſe we call our enemies gifts no gifts, Ἔχθρων δῶρα δῶρα. Theſe ceremonies being ended, towards night the woman was brought home to her husbands houſe with five Torches, ſignifying thereby the need which married perſons have of five gods, or goddeſſes, *i. e. Jupiter*, *Juno*, *Venus*, *Suadela*, and *Diana* who oftentimes is called *Lucina*, the reaſon of the name being rendred by *Ovid.*

——Dedit hæc tibi numina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the uſe of theſe Torches

k Cic. in orat. pro Muræn.

l Sig. de jure Rom. l. 1. c. 9.

m Suet. in Tib. c. 35.

n Cic. orat. pro Muræn. Item Fr. Syl. ibid.

o Cœl. Rhod. l. 28. c. 17.

p Hier. Ferarius in Phil. pic. orat.

Torches was not only to give light, but to repreſent the element of fire; for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*, for which reaſon the cuſtom likewiſe was, to beſprinkle the new married woman with water; yea, they did both in the time of their contract touch water and fire provided for that purpoſe. The ſignification of this ceremony ſome think to be thus; The fire becauſe it is an active element, to repreſent the man, The water becauſe it is paſſive, to repreſent the woman. Others ſay, that in the community of theſe two elements, was intimated the community between man and wife, of all other their goods and poſſeſſions, which was more fully declared in that ſore-quoted Proverb, uſed by the wife, *Ubi tu Caius, ibi ego Caia.* The matter whereof theſe Torches were made was a certain tree, from which a pitchy liquor did iſſue: it was called *Teda*, and hence have the Poets figuratively called both the Torches and the wedding it ſelf *Tedas.* When the woman had been thus brought to the door, then did ſhe anoint the poſts of the door with oyle, *q* from which ceremony the wife was called *uxor quaſi unxor.* This ceremony of anointing being ended, the Brideman did lift her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſty ſhe would not ſeem to go without violence into that place, where ſhe ſhould loſe her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talaſſio, Talaſſio*: for which cuſtom, *r Plutarch* alledgeth many occaſions; this being one. Among thoſe who raviſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort, carrying away one of the faireſt women; which being known, certain of the Citizens would have taken her from them, but they began to cry out, that they carried her to *Talaſſius*, a man well beloved among the Romans; at which naming of *Talaſſius*, they ſuffered her to be carried away, themſelves accompanying her, and often crying *Talaſſio, Talaſſio.*

Pancirol. lib. rerum deperdit. cap. de Nuptiis.

q Serv. Æn. l. 4.

r Plutar. vit. Pompeii.

From

From wence it hath been continued a cuſtom among the Romans, ever at their marriages to ſing *Talaſſio*, *Talaſſio*, as the Greeks did *Hymen*, *Hymenae*. From this cuſtom of leading or bringing home of the new married Bride, cometh that Comical phraſe, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands houſe, whereby was intimated, that the cuſtody of all things in the houſe, was then committed unto her. ſ The marriage bed was called *Genialis lectus*, as we may ſuppoſe, *quaſi Genitalis*. t Sometimes it was called *Lectus adverſus*, *quod hunc lectulum religioſe ſervari mos fuit, & in atrio collocari janua ex adverſo*, *i. e.* They placed this bed in the Court, directly oppoſite to their gate, keeping it as ſome religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers term *Nuptialia dona*. u But *Cicero* expoundeth theſe *Dona Nuptialia*, to be certain tokens, which the husband ſent to his wife before the betrothing. If after the marriage any diſcontent had ſaln out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddeſs, called *Dea viri-placa*, *à viris placandis*. Whence after they had been a while there, they returned friends. We have thus ſeen the Rites and Ceremonies which the Romans uſed in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements which upon juſt cauſes were permitted. x There were two manner of divorcements, the one between parties only contracted, the ſecond between parties married. The firſt was properly called *Repudium*, in which the party ſuing for divorcement uſed this form of words, *Conditione tua non utar*. The ſecond was called *Divortium*, wherein the party ſuing it, uſed theſe words, *Res tuas tibi habeto: vel res tuas tibi agito*. Both theſe kinds were termed *Matrimonii renunciationes*, renouncing or refuſal of marriage. Where we muſt note, that inſtead of

ſ Alex. Gen. dier. l. 2. c. 5.
t Lipſ. Elect. l. 1. c. 17.
u Vid. F. Syl. pro Cluent.
* Sig. de Jur. Rom. l. 1. c. 6.
x Roſin. ant. l. 5. c. 38.

of this verb *renunciare*, divers good Authors uſe this phraſe, *Mutere*, or *Remittere nuncium*: as *C. Caſar Pompeja nuncium remiſit*, *C. Caſar* hath divorced *Pompeia*. And alluding hereunto *y Cicero* ſaith, *Virtuti nuncium remiſit*, *i. e.* he hath caſt off all goodneſs, he hath even divorced virtue. Secondly, we muſt note, that this verb *Renuncio*, doth not only ſignifie to renounce or to refuſe, but many times in *Tully*, it ſignifieth to declare or pronounce a Magiſtrate elected, as *Renunciare Conſulem*, *Prætorem*, &c. The reaſon why in matrimonial contracts it ſignified to renounce or refuſe, was becauſe in theſe divorces they did ſometimes ſend to their wife, *per nuncium*, by a meſſenger, ſome bill or ſcrole of Paper, containing the cauſes of the divorce. Moreover we are to obſerve, that in theſe divorces, the Ceremonies were quite contrary to thoſe Marriages; the juſt cauſes being fore-ſignified to the Cenſors, the Marriage tables were broken, the dowry reſtored, the keys of the houſe taken from the woman and ſhe turned out of doors: all which Ceremonies are at large treated of by *Thomas Dempſter. l. 5. Antiq. Rom. c. 38.*

y Ep. fam. l. 5.

CAP. 21.

Quo apparatu, quibuſq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THe *Romans* in antient time, when they perceived a body dying, had ſuch a cuſtome, that the next of the kin ſhould receive the laſt gaſp of breath from the ſick body into his mouth, as it were by the way of kiſſing him: (to ſhew thereby how loth and unwilling they were to be deprived of their friends) and likewiſe ſhould cloſe the eyes of the party being deceaſed. Whence *Anna* ſaid unto her ſiſter *Dido* now dying,

——*z Extremus ſi quis ſuper halitus errat*
Ore legam—— *z* Virg. Æn. 4.

And *Penelope* wiſhing that her ſon *Telemachus* might outlive

live her self and his Father, writeth to her husband in this manner. *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven days unburied, washing the corps every day with hot water, and sometimes anointing it with Oyl, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per calidos latices aliena undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.

In these seven days space, all the dead mens friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead body had been only in a swoun or sleep, he might thereby be awaked. This action was termed *conclamatio.* Whence when we have done the best we can in a manner, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general out-cry, (which was always upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial, being invested with such a gown as the parties place or office formerly had required. Those who had the dressing, chesting, or imbalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heels outward toward the street according to that of *Persius*;

——Tandemque beatulus alto
Compositus lecto, crassisque lutatus amomis,
In portam rigidos calces extendit——

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral.

Ὅς μοι ἐνὶ κλισίῃ δεδαγμένος ὀξὺ χαλκῷ
Κεῖται ἀνὰ πρόθυρον τετραμμένος——*id est,*
Qui mihi in tabernaculo confessus acuto ære
Jacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed near the gate also was erected an Altar,

tar, called in Latine *t Acerra*; upon which his friends did every day offer incense until the burial: The gate on the outside was garnished with Cypress branches, if the dead man were of any wealth or note, for the poorer sort by reason of the scarcity of the tree, could use no such testimony of their mourning.

t Alex. Gen. dier. l. 3. c. 7.

u *Et non plebeios luctus testata cupressus.* u Lucanus.

In the seven days space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signifie as much as *capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in the manner of a Belman went about the Town to call the people to the solemnization of the funeral in this form of words; *Exequias* y *L. Tito L. Filio quibus est commodum ires. Jam tempus est. Olim ex aedibus effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor women called *Prasiæ* following after, and singing Songs in the praise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; z *Senatoribus & patriciis tuba, minoribus plebeiis tibia eaneham fiticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad fitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and because the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *à vespertino tempore*, those that carri-

x Alex. Gen. dier. l. 5. c. 26.

y Rosin. ant. l. 5.

z Alex. Gen. dier. l. 3.

ed the corps were termed *vespæ*, or *vespillones*. In the burial of a Senator or chief Officer, certain waxen Images of all his Predecessors were carried before him upon long poles or spears, together with all the ensigns of honour which he deserved in his life-time. Moreover, if any servants had been manumized by him, they accompanied the mourners lamenting for their masters death. After the corps, followed the dead mans children, the next of the kin, & other of his friends, *atrati*, i.e. in mourning apparel. From which act of following the corps, namely *à sequendo*, these funeral rites have been termed *Exequiæ*, as *Donat.* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*; which rites, because they were performed as debts due unto the party deceased, hence were they also called *Justa*. *Eo dicuntur justa, quod jure mortuis facitari debent à vivis. Polyd. de invent. l. 6. c. 9.* The corpse being thus brought unto their great Oratory called the *Rostra*, the next of the kin *laudabat* a *defunctum prorostris*, i. e. made a funeral Oration on in the commendation principally of the party deceased, but touching the worthy acts also of those his Predecessors, whose images were there present. The Oration being ended, the corpse was in old time carried home again in manner as it was brought forth.

a Suet. C. Jul. Cæsar, c. 6.

Sedibus hunc referente suis & conde sepulchro.

But afterward by the law of the twelve tables, it was provided, that no man besides the Emperour and Vestal Nuns should be buried within the City, though some upon especial favour have obtained it. The manner of their burial was not by interring the corpse, as in former times it had been, but burning them in a fire, *b* the reason thereof being to prevent the cruelty of their enemies, who in a mercileſs revenge would at their conquests dig up the buried bodies, making even the dead also subjects of their implacable wrath. This fire before the burning was properly called *Pyra*: in the time that it burned, it was called *Rogus*; *c quod tunc temporis Rogari*

b Salmuth. in Pancirol. lib. rerum deperdit. de exequiis.

c Serv. Æn. 5.

Rogari ſolerent. Manes; after the burning, then was it called *Buſtum, quaſi bene uſtum.* This *Pyra* was alwaies built in form of a Tabernacle, as it is * above more at large to be ſeen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a ſecond ſolemnity. The charges at funerals growing by this means to be doubled, the law of the 12 Tables provided in theſe words, *Homini mortuo oſſa ne legito, &c.* that no mans finger ſhould be cut off, except he died either in the war, or in a ſtrange country. Where we muſt obſerve, that *lego* in this place doth ſignifie as much as *adimo* or *aufero*, in which ſenſe we call him *ſacrilegum, qui legit*, i. *qui adimit & aufert ſacra.* After the dead body had been laid upon the *Pyra*, then were his eyes opened again to ſhew him heaven, if it were poſſible, *d* and withall an half-penny was put in his mouth, they ſuperſtitiouſly conceiting that that half-penny was *naulum Charonis*, the pay of *Charon* the ſuppoſed ferry-man of Hell, who was to carry mens ſouls in his boat over the *Stygian* Lake after their deceaſe. About this *Pyra* were firſt many boughs of Cypreſs trees to hinder the evil ſcent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averſe from the *Pyra*, did kindle the fire with a torch. After this, commonly certain Fencers hired for this purpoſe did combate each with other, till one of them was killed, they were termed *buſtuarii* from *buſtum.* The blood of thoſe that were ſlain, ſerved inſtead of ſacrifice to the infernal gods, which kind of ſacrifice they termed *Inferiæ.* *e* *Inferiæ ſunt ſacra mortuorum quæ inferis ſolvuntur.* Anon after the body had been burned, his neareſt friends did gather up the aſhes and bones, which being waſhed with milk and wine, were put into certain Pitchers called *urnæ*: whence this word *urna*, is often uſed by the Poets, to ſignifie a Grave or Sepulcher, as

——*Una requieſcit in urna*: Ovid. Met. lib. 4.

* Vid. ſup. p. 30.

d Alex. Gen. dier. l. 3.

e Servius.

Though properly *sepulchrum* was in old time a vault or arched roof, *f* round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these funeral solemnities were commonly toward night, insomuch that they used torches; these torches they properly called g *funalia à funibus cera circundatis, unde & funus dicitur.* *h* Others are of opinion, that *funus* is so said from the Greek word φόνος, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *Præfica* with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signfying as much as *Irelicet*;) Then presently did the company depart, taking their farewel of the dead body in this form of words: *Vale, vale, vale; nos te ordine quo natura permiserit sequemur.* If any of these ceremonies had been omitted, *i* then was it termed *sepultura insepulta*, in the same sense as *nuptiæ* formerly were termed *inupta*. The old and aged men were invited, after the burial, to a feast, or funeral banquet, called *silicernium* k *quasi silicœnium*, i. e. *cœna supra silicem posita*, their custom being to eat that feast upon an altar of stone; and because this feast was only eaten at funerals, and by the elder sort, *l* hence figuratively this world *silicernium* doth sometimes signifie an old cripple ready for the grave. The poorer people in stead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a potation, or drinking of wine after the burial, called *Murrhata*, or *Murrhina potio*, which, afterwards the law of the 12. Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in the mourners, it did prohibit the use of this word *Lessum*, [*Neve lessum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejulation, or note

of

f Rosin. ant.

g Serv. in Æn. 18. l. 1.
h Hub. c. n. Ci. ep. ant. l. 4.

i Hier. Ferarius in Cic. orat. Philip.

k Servius in Æneid. l. 5.

l Antesig. in Ter. Adelph. Act. 4.

of inward ſorrow. This ſorrowing or mourning was in ſome caſes utterly prohibited, in others limited; [m] namely, an Infant dying before he was three years old, ſhould not be mourned for at all; becauſe he had ſcarcely yet entred into this life. Elder perſons were to be mourned for ſo many days as they were years old. Wives were permitted to mourn for their husbands (*Alexander* addeth, alſo children for their Fathers) ten months, if they would, within which time the widow could not marry another husband without infamy and diſcredit. *Polyd. de Inven. l. 6. c. 9.* Here we may with *Revardus* obſerve a diſtinction between *Lugere* and *Elugere*; *Lugere* ſignifieth no more than to mourn ſome part of the time preſcribed, *Elugere* to mourn the whole and full time.

[m] Alex. Gen. dier. l. 3. c. 7.

LIB. II. SECT. III.

Of the Roman *Games.*

CAP. I.

De ludis Megalenſibus.

THE Playes uſually exhibited by the *Romans*, may be divided into three ſorts; ſome were *Ludi ſacri*, others *Honorarii*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the gods: Such were theſe that follow in their ſeveral Chapters. *Megalenſes ludi*, they are called ſimply *Megaleſia*, from the Greek word μέγας, ſignifying *Magnus*, becauſe they were performed in the honour of *Cybelle*, called *Magna mater*: of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here take notice of that which is not mentioned there, namely, that theſe Games began *pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued ſix dayes after: as appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleiades*, which is on the ſecond of *April*, addeth,

Ter-

Ter ſine perpetuo cœlum verſetur in axe,
Ter jungat Titan, terq; reſolvat equos,
Protinus inflexo Berecynthia tibia cornu
Flabit, & Idæa feſta parentis erunt.

This I note, that the errour crept into *a Livy* may be obſerved, who treating of the matter in hand, ſaith, *In eadem Victoria quæ eſt in Palatio, pertulere Deam pridie Idus Aprilis, iſq; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſterinum, & Ludi fuere, Magaleſia appellata.* That is, that theſe Plays were celebrated upon the twefth of *April.* But in the judgement of many Expoſitors, we are to read *Pridie Nonas*, for *Pridie Idus.* Moreover, ſervants might not be ſpectators here. And becauſe the *Prætors* did frequent theſe ſports in their purple and beſt robes, *b* hence grew that Proverb *Purpura Megalenſis.* To the younger ſort at this time, liberty was granted to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. *c* They were ſometime termed *Ludi ſcenici*, though properly, *Ludi ſcenici* ſignifieth Stage-plays, and were performed in the honour of *Bacchus.*

a Liv. l. 29.

b Ant. Conſt. in Ovid. Faſt. l. 4.

c Jul. Scalig. Poet. l. 1. c. 29.

CAP. 2.

Ludi Cereales.

THat theſe Games were performed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* Matrons, *Ceres* her lamentation of her daughter *Proſerpina*, taken away by *Pluto.* The *Roman* men beheld theſe plays in white gowns: the women performed the ſacred and holy Rites in a white garment alſo. Among whom it was obſerved, that then they thought their ſervice grateful to the Gods, when it was performed by thoſe that were joyful, and free from all funeral pollutions. At this time there was a ſolemn going in proceſſion, and carrying about their Gods in the Cirque, this ſolemnity was properly called *Pompa.*

Circus:

Circus erat Pompa celeber, numeroq; Deorum,
Primaq; vemoſis palma petenda equis,
Hic Cereris ludi, &c. Ovid. Faſt. l. 4.

The manner of this ſolemn ſhew, which as I noted, was properly called *Pompa*, is deſcribed *d* thus by its particulars; that there was *Simulachrorum ſeries, imaginum agmen, currus, thenſa, armamaxa, ſedes, corona, exuvia*, i. e. *Firſt*, In this ſolemn proceſſion were carried about the Images of the Gods. *Secondly*, the Images of well-deſerving men. *Thirdly*, Chariots led up and down for greater ſtate and magnificence; unto this *Virgil* alludeth:

d Tert. de ſpect. c. 7.

Hic illius arma,
Hic currus fuit.

Fourthly, Pageants, ſo I interpret *Thenſa*, which were ſo called *quaſi tenſa à tendendo*, as *e Aſcanius* noteth, becauſe they were carried up and down by the help of certain ropes, which to touch they counted a point of Religion. *Fifthly*, horſe-litters, for that theſe *armamaxa* were not Chariots, or Waggons, appeareth by him, f *Qui ex curru in armamaxam deponebatur*. They ſeem to have been of a compounded form, in part like Chariots, called ἅμματα, in part like Wains, called ἅμαξαι, and thence ἀμμάμαξα hath its appellation, ἀμμάμαξα inquit *Phavorinus*, ἢ σφὸς ἀνδρῶν καθέδρην κατεσκευασμένη ἅμαξα, οἷον ἅρμα ἢ ἅμαξα, ἢ ἀνδρόγεμὲς πως ὂσα ἡ ἄγουσα τοὺς ἄνδρας. In which words, beſides the Etymology expreſſed, the uſe hereof is declared to be for the carriage of men. That as the Chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that *g Thenſa Deorum vehiculum*, ſo in theſe Horſe-litters were carried men; or rather that ſame *agmen imaginum*, which was the ſecond particular. *Sixthly*, Chairs of State. *Seventhly*, Crowns. *Laſtly*, Spoils taken from their enemies. Theſe three laſt I take to have been uſed chiefly and principally in the *Roman* ſupplications, or publick thankſgivings for any greater victory: the cuſtom being in ſuch ſhews, when they came to ſuch and ſuch remarkable

e Vid. Franc. jun. annot. in Ter. de ſpect. It. de tenſis. vi. Turneb. 26, 27.

f Herod. 17.

g Alex. ab Alex. l. 2. c. 30.

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and spoils taken from the enemy, reputing it not the least office, *h* thus to honour their Emperor, though absent, with the Prerogative of such a Chair. Now in the preparation to this particular shew, we read that an egg was especially provided. It is observed by *i* many out of *Macrobius* whose words are; *Ovumq; in Cerealis Pompæ apparatu numerabatur primum.* The observation is general, but the reason thereof, *Inter arcana Cereris,* quite suppressed, and by none that ever I could meet with yet explained: if my conjecture may satisfie in a matter so obscure, conceive it thus: These pompous shews were various, and in the honour of divers gods, and accordingly the *Romans* made choice in every such solemnity, of some one principal thing in their shew unto which the glory of the present solemnity should in a more especial manner belong. Thus in the *Pompa Circensis,* which was celebrated in the honour of the *k* Sun; great horses were led up and down for greater state; *l Quia equis, & equestribus exercitamentis sol præesse credebatur superstitione antiquissima.* Hence the Cirque place it self was called τὸ ἵππιον, and ἱπποδρόμιον. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis,* from the place where it was exhibited) an egg was chiefly and principally provided: for seeing that under the name of *Ceres,* this solemnity was performed to the *Earth,* how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it self was beholden to the *Earth.*

——— *Pecori frondes; alimentaque mitia fruges*
Humano generi, vobis quoq; thura ministro. Ov. Met. l. 2.

And such an Hieroglyphick *m Cœlius Rhodiginus* proveth an egg to be, partly from its circular and Globe like form, partly from the matter whereof it consisteth; the hard shell resembling the solid earth, the more spiritu-

h Vid. Isaac. Casaub. in Sueton. Jul. c. 76.

i Hosp. de. orig. fest. Rosin. l. 5. c. 14. Alex. ab Alex. l. 6. c. 19.

k Solis honore novi grati spectaculi Circi Antiqui sanxere patres. Corri. Alric. l. 1. c. 17. vid. Dempst.

l Franc. Jun. annot. in Ter. de spect. c. 8.

m Cœl. Rhod. l. 27. c. 17.

ous part thereof, the air; the moist and liquid part, the water; the yolk, the element of fire; yea, he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egg, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Circque, some in the form of *Dolphins* in the honour of *Neptune*; so there were others *n* ὠοειδῆ δημιουργήματα marks of a long roundness in form of an egg, in memory of *o Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*,

Ovo prognatus eodem. Hor. Serm. 2. Sat. 1.

For the same reason haply it was, that an egg was at this time carried up and down, as the chief and principal Ensign.

n Dion. l. 49.

o Tertul. de spect. c. 8.

CAP. 3.
Ludi Florales.

THese games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, *p* was upon the four last dayes of *April*, and the first of *May*, whence is that of *Ovid*, *Fast.* 5.

Incipis Aprili, transis in tempora Maii;
Alter te fugiens, cum venit alter, habet.

p Alex. ab Alex. l. 6. c. 8.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus
Florali matrona tuba.

Moreover, whereas in other games, Boars, Lions, and Bears were

were publickly baited, to recreate the ſpectators; here only Goats and Hares, and ſuch milder beaſts were hunted, becauſe the goddeſs *Flora* had not the cuſtody of Woods and Foreſts, *q* where the wild beaſts ranged, but Gardens and Meadows. At this time alſo Elephants were brought forth into the publick view of the people, which were taught *r* to walk on ropes; and that there is an aptneſs in Elephants to go forward and backward on ropes, *ſ Pliny* teſtifieth.

q Hoſ. de orig. feſt.

r Suet. in Gal.

ſ Plin. l. 8. c. 3.

CAP. 4.
Ludi Martiales.

OF theſe ſports there is not much ſpoken: *t* they were obſerved upon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted *u* by *Numa Pompilius.*

t Dion. l. 60.

u Tertul. de ſpect. c. 5.

CAP. 5.
Ludi Apollinares.

THere was an ancient Poet called *Martius*, *x* out of whoſe writings, as likewiſe out of the *Sibylline* Oracles, the Romans were admoniſhed to dedicate certain Games to *Apollo.* At the firſt celebration of them, *y* it is reported, that a ſudden and unexpected invaſion of enemies inforced the Roman people to forſake their ſports, and to betake themſelves to weapons: in which time of their diſtraction, a cloud of Darts and Arrows was ſeen to fall upon their enemies, ſo that they preſently returned Conquerors unto their ſports, where *z* at their return they found one *C. Pomponius*, an old man, dancing to a Minſtrel, and being very joyful, that their ſports had been continued without interruption, they cryed forth, *Salva res eſt, ſalta ſenex.* Which ſpeech after became proverbial, and is fitly uſed, when a ſudden evil is ſeconded with a good event, beyond hope or expectation.

x Liv. lib. 5. dec. 3.

y Macrob. l. 1. Sat. c. 17.

z Suet. Pom. Feſt. vid. Hoſ. de orig.

CAP. 6.

De ludis Romanis, qui & magni, & Conſuales, & Circenſes dicti.

THeſe ſolemnities are ſometimes called *Romani ludi*, becauſe of their antiquity amongſt the *Romans*, being firſt inſtituted by *Romulus*; ſometimes *Magni ludi*, either becauſe of the great charge and expence of money at that time, or becauſe they were performed in the honour of their great God *a Neptune*, called alſo *Conſus*, becauſe he was reputed the God of ſecret *Counſels*, whence the ſolemnities themſelves are ſometimes called *Conſualia*: whereas many of the *Roman* Temples, for certain myſterious ſignifications had their peculiar manner of building. *b Servius* noteth that the Temple in the great Cirque dedicated to *Conſus*, was covered, to ſignifie that Counſels muſt be ſecret and concealed. Likewiſe for the ſame reaſon, *c* his Altar was made under the earth, not appearing in publick view, ſave only in the time of theſe ſolemnities exhibited. The chief ceremonies uſed at this time, conſiſted in the adorning of their Horſes, & Aſſes with garlands, wherein *d* they thought that *Neptune* was honoured, who was the firſt Author and inventor of horſe-riding: hence *Neptune* himſelf is called Ἵππιος. This feſtival was firſt inſtituted by *Evander*, in the honour of *Neptune*, under the name of Ἵππιος, and *e* thence the feaſt was called ἱππουκρασία. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewiſe, but under the name of *Conſus*, becauſe *Romulus* needed a God of Counſel to aſſiſt him in that deſignment of his, for the violent taking away of ſo many *Sabine* women, as were taken away at the firſt celebration of theſe games. The reaſon of *Romulus* his inſtitution of them, being no other but that upon the fame of theſe new ſports, many *Sabine* women flocking thither to be ſpectators, his project might be the ſooner effected. Theſe and the Cirque ſhews,

a Tert. de ſpect. c. 5.

b Serv. in Vir. Æn. l. 8.

c Alex. ab Alex. l. 5. c. 26.

d Vid. Suid.

e Dion. Hal. lib. 1.

ſhews, ſo often mention'd in antient Authors, at firſt were all one, as appeareth by that of *f Valerius. Ad id tempus Circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis Conſualium nomine celebravit.* Touching theſe Cirque ſhews, ſome are of opinion, that they were performed in the honour of *Ceres*; this *Julius Scaliger g* diſliketh, and he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion, they were inſtituted in the honour of the *Sun*. All opinions may be reconciled, if we underſtand firſt, thoſe Authors who aſcribe theſe Cirque-ſhews to *Ceres*, to ſpeak of the *Cereales Ludi*, which we read ſometimes to becalled *Circenſes*, becauſe they were exhibited in the Cirque. Secondly, if we diſtinguiſh the *Pompæ Circenſes*, from the *Circenſes Ludi*, and from the *Cereales ludi*: the *Cereales ludi*, were inſtituted in the honour of *Ceres*, the *Circenſes ludi*, in the honour of *Neptune*; the *Circenſes Pompæ* in the honour of the *Sun*. And furthermore, for the full underſtanding hereof; we muſt know that the horſes brought into the Cirque at this time, were of two ſorts: ſome were only πομπικοὶ, ſuch as were led up and down for ſhew and ſtate; I underſtand *Alex. ab Alex.* to ſpeak of theſe horſes, when he ſaith *h* horſes were conſecrated to the Sun: nay I underſtand thoſe horſes mentioned, 2 *King.* 23. to have been of the like ſuperſtitious invention, where it is ſaid that *Joſiah* did put down the horſes given to the *Sun* and the *Chariots of the Sun*. That practice I ſay hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Perſians*, who alſo accounted them holy to the Sun; *i* and the *Perſian* King when he would ſhew himſelf in great ſtate, caus'd an exceeding great horſe to be led up and down, which was called *Equus ſolis*. Other horſes were for exerciſe and race, we may call them ἱππικοὶ, the inſtitution of theſe I ſuppoſe to have been in the honour of *Neptune*. The prizes of maſteries exerciſed in time of this Cirque-ſhew were many; fencing, and

f Val. Max. l. c. 4.

g Jul. Scal. l. poet. c. 32.

h Alex ab Alex. l. 3. c. 12.

i Cœl. Rhod. ant. l. 8. c. 2.

and that until one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot, jumping, and leaping; horse-racing; sea-skirmishes exhibited in some river, coach-races, & fighting at whorlebats. Howsoever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last will be very behoveful, for the more full understanding of the *Roman* history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russeas*, distinguishing each faction or company by the different colour of their coats. Afterward they were divided into four companies, distinguish'd always by their colours, whence came that distinction, *Factiones Prasina, Russata, Veneta, Albata*, which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a *Venice* blue, or Turkey colour: and the last a perfect white. Of these *l Tertullian* speaketh as followeth: *Aurigis coloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyems, ob nives candidas; russeus, æstati ob soles ruborem voti erant; sed postea tam voluptate, quam superstitione provecta russeum alii Marti, alii album Zephyris consecraverunt: Prasinum vero Terræ matri, vel verno: Venetum Cœlo & mari, vel autumno.* As the Emperor, so the people sometimes favoured one faction or company, sometimes another: & accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus *m Turnebus* interpreted *Tertullian*, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but sometimes *n Sponsionibus concitatus*, i. e. stirred up with a desire of betting, or laying wagers. To these four *o Domitian* in his time added two other companies, the one wearing cloth of Gold, the other of purple, but these latter remained not long in use. Their fighting at whorlebats they

k Hen. Salm. in Pancir. c. de Cir. max.

l Tert. de spect. cap. 9.

m Turneb. ad. l. 8. c. 4.

n Tertul. de spect. c. 6.

o Suet. in Domitian. c. 7.

they termed *bellare ceſtu*. The manner of a fight conceived thus; the combatants had in each hand a ſtrap of leather, with which each ſtruck at the other (for we muſt know, that this kind of fight ſucceeded fiſticuffs; and becauſe in fiſticuffs the party ſtriking, did by the blow as well hurt his own fiſt, as he did him that was ſtrucken, hereupon they invented this other kind of fight with leathern ſwitches) theſe leathern ſwitches they called *Ceſtus*, from the Greek κεστὸς, ſignifying a belt or girdle; to make the fight more dangerous, *p* they did in after-times tie pieces of Lead, or Iron, at the end of theſe leathern ſtraps, ſo that they did with the force of the ſtroke, often daſh out one anothers brains; and becauſe by the weight of the Lead or Iron, the Strap might chance to fly out of their hands, they cauſed each ſtrap to be tied faſt to their arms & ſhoulders; neither was this without reaſon; for thoſe Iron or Leaden pieces could not but be very weighty, being made in the bigneſs and *q* form of Rams Horns. Laſtly theſe Cirque-ſhews had their appellation, *Circenſes*, either from the great Cirque, or ſhew place, called *Circus max.* where the games were exhibited; or from the ſwords wherewith the players were environed, as one would ſay *Circa enſes*. They much reſembled thoſe *Gretian* games called *certamina Olympica*, where the runners with Chariots were hem'd in on the one ſide with the running river, on the other with ſwords pitched point-wiſe, that they ſhould hold the race on directly & not ſwerve aſide without danger. *r* Some have thought them to be the ſame with *ludi Gymnici*, ſo called from γυμνὸς, naked, becauſe that thoſe which did perform thoſe kind of exerciſes, did either put off all or the greateſt part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpoſe they did alſo anoint their bodies with oil, whence we ſay, when a man hath loſt his coſt & labour, *Operam & oleum perdidit*, *oleum* in this place ſignifying coſt & charges:

p Jul. Scal. lib. poet. c. 22.

q Aldus Manut. l. 2. de queſt. per epiſtolam, ep. 8. vid Roſin. ant. l. 5. c. 5.

r Roſin. ant. l. 5. c. 5.

charges: so that the proverb was the same with that of the Coblers Crow, *Opera & impensa periit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini.

THe first institution of these games *r Livy* sheweth, where likewise he intimateth the reason why they were called *Capitolini*, to have been in the honour of *Jupiter Capitolinus*, because he preserved the *Capitol*, when it was assaulted by the *Gauls*: we must distinguish these games from those other shews called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, *s* these *Agones* every fifth year: In those was celebrated the deliverance of the *Capitol*: In these Rhetoricians, and Poets, and men of other professions contended for the victory: and hence *t Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of opinion, that *Juvenal* alludeth unto these solemnities,

r Liv. dec. 1. & lib. 5.

s Sueton. in Domit. c 4.

t Rosin ant. l. 5. c. 18.

——— *Sed cum fregit subsellia versu,*
Esurit, intactam Paridi nisi vendit Agaven. Sat. 7.

Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non stetit*, *Excidit*, or *Non placuit*: as if the Poet of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal*; for the scope and drift of that Satyr, is to shew that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby but a vain and empty applause, so that he shall be compell'd to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the

the contrary, signifie the vehement acclamation given by the people in approbation of the Poem; it being a Poetical elegancy, to express the vehemency and greatness of the applause. [u] *Sidonius Apollinaris* useth the self same phrase, *Hunc olim perorantem, & Rhetorica sedilia plausibili oratione frangentem, socer eloquens ultro in familiam patriciam ascivit.* Neither is that of *Virgil* unlike:

Et cantu querulæ rumpunt arbusta cicadæ.

Yea, the *Grecians* used the same manner of Speech, [x] κατεῤῥήγνυτο πᾶς ὁ τόπος, ὑπὸ τοῦ Κρότου, καὶ τῆς Κραυγῆς. So that hereby I think the Poet understandeth that *Grande sophῶs*, so often mentioned by *Martial*; it being a usual custom among the *Romans*, to signifie the approbation of their Orator or Poet, by the loud acclamation of σοφῶς or ὀρθῶς. Unto which *Horace* alludeth, *de Arte Poet.*

——— *Clamabit enim pulchre, bene, recte.*

But to return whence we have digressed, these later solemnities were of such note, that whereas the *Romans* formerly made their computations of their greater year, called *Annus magnus*, by their *Lustra*, [y] now they made it by these *Agones Capitolini*. Again, we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by [z] *Augustus Cæsar*, in memory of the Victory which he got against *Antonius* upon the Promontory *Actium*, whence they were called *Actiaci Ludi*.

u Sidon. Ap. lib. 5. Epist. ad Sapand.

x Polyb in hist. 15.

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

CAP. 8.

De Ludis Sæcularibus.

AUthors agree not upon the just period of time when these secular games were to be renewed: some are of opinion that they were to be celebrated every hundredth year; some every hundredth and ten, some once only in three hundred; but in this all agrre, that they were named *sæculares* from *sæculum*, which signifieth at least

Herodian. l. 3. in vita Sever.

[a] Rosin. ant. l. 5. c. 1.

leaſt an hundred years, *a ſæculum in centum annos extendi exiſtimabant*; Becauſe the full and compleate age of man might extend it ſelf to the hundredth year, and ſeldom to any above an hundred: thence it was, that the form of words uſed by the publick Cryer in proclaiming theſe Games, was, [b] *Venite ad Ludos quos nemo mortalium vidit, neque viſurus eſt.* Unto which [c] *Ovid* alludeth, *Triſt. l.* 2.

[b] Pol. Virg. de invent. l. 8. c. 1.

[c] Ovid. Triſt. lib. 2.

——— *Carmina* ———

Juſſerat & Phœbo dici, quo tempore ludos
Fecit, quos ætas aſpicit una ſemel.

But the Emperours being ambitious of honour, and deſirous to be ſpectators of the Games in time of their own Reign, they did often anticipate the time. *Claudius Cæſar* among the reſt, proclaimed them within [d] ſixty three years after *Auguſtus* had obſerved them; which occaſioned the people to deride his Cryer, inviting the people to thoſe ſhews and ſports, which no man living either had ſeen, or ſhould ſee again: becauſe [e] ſome who were Spectators, nay, Actors in thoſe Solemnities exhibited by *Auguſtus*, lived at the ſame time when *Claudius* cauſed this to be proclaimed. Theſe plays were alſo [f] called *Tarentini ludi*, not from the City *Tarentum* in great *Greece*, but from a certain place of the ſame name near *Rome*, adjoyning to the River *Tiber*. All the Theatres at this time were filled, and Sacrifices offered throughout all the *Temples*, for the ſpace of three days and three nights; which giveth light to that of *Auſonius*,

[d] Alex. ab Alex. l. 6. c. 9.

[e] Suet. Claud. cap. 21.

[f] Hoſp. de orig. feſt.

Trina Tarentino celebrata trinoctia ludo.

The firſt day the Emperor and the *Quindecim-viri*, early in the morning aſcended the *Capitol*, and there offered ſacrifice according to the wonted manner: thence they departed to the Theatres, to perform ſolemn playes in the Honour of *Apollo* and *Diana*. The ſecond day the Noble Matrons aſſembled together in the *Capitol*; they offered up ſupplications unto their Gods, they faſted and ſung hymns in the Honour of their Gods. The third day, ſeven and twenty Boys, going along three and three,

three, and as many maids in like manner, all of them Nobly deſcended, and having both Father and Mother alive, ſung Verſes, in which they commended the *Roman* State to the protection of the immortal Gods. This was termed *Paanas concinere*; which word *Paan*, though it ſignifieth primarily an hymn, or ſong of Praiſe made to *Apollo*, who was called *Paan*, [g] from παίειν, *à feriendo*, becauſe of his victory gotten of the *Python*; yet [h] ſometimes, and ſo in this place, it denoteth the praiſes in general of all the Gods. Again, the phraſe intimateth an elevation of the voice in ſinging, with a kind of riſing from one note to another. Thus *Turnebus* maketh παιανίζειν and μυυρίζειν to be oppoſite; [i] *Videtur autem Paan contentionis vocem eſſe, minuritio remiſſionis.*

[g] Cœl. Rhod. antiq. l. 7. c. 5.
[h] Servius in Æn. lib. 6.
[i] Turneb. adv. lib. 1. C. 12.

CAP. 9.

De ludis Plebeiis, Compitalitiis, Auguſtalibus, Palatinis, Taurilibus, & votivis.

OTher Games there were performed in the Honour of the Gods, which are rather named by Authors than explained, they are theſe that follow: *Plebeii ludi*, [k] which were celebrated in memory of the liberty procured to the *Roman* ſtate by the ſucceſſion of Conſuls in the place of Kings: or as others ſay, in memory of the reconciliation wrought between the Senators and the Commonalty, by reaſon of their great oppreſſion at that time, when the *Commons* in a kind of mutiny departed to the *Aventine* Mount. 2. *Compitalitii Ludi*, ſo called becauſe they were uſually ſolemnized in *Compitis*, (i. e.) in the croſs-ways, and open ſtreets: [l] they were firſt ordained by *Servius Tullius*, in the Honour of thoſe Gods whom they termed *Lares*, in the memory of his Nativity. The form of words uſed by the *Prætor*, when he ſignified to the people the time of theſe ſolemnities, was as followeth: [m] *Die noni poſt Calendas Januarii Quiritibus Compitalia erunt.* Concerning which words *Gellius* noteth, [n] *Die noni*

[k] Alex. ab Alex. l. 6. c. 19.
[l] Plin. lib. 36. cap. ult.
[m] Macrob. l. 1. Satur.
[n] A. Gel. noct. Att. l. 10. c. 14.

ni Prætor dicit, non die nono, neq; Prætor ſolum, ſed pleraq; omnis vetuſtas ſic locuta eſt. 3. *Auguſtales ludi*, performed in the Honour of *Auguſtus Cæſar*. 4. *Palatini ludi* ſo named, becauſe they were performed in the *Palatine* mount. Some are of opinion that they were inſtituted in the Honour of [o] *Julius Cæſar*, others in the honour of [p] *Auguſtus*. 5. *Taurii ludi*, which received their name from *Taurus*, a Bull; they were firſt ordained by *Tarquinius* [q] *Superbus*, when there hapned a great peſtilence amongſt the women with child, occaſioned by much Bull-fleſh ſold unto the people; for the removal of which plague, theſe games were inſtituted, in Honour of the Infernal Gods. They are ſometimes alſo called *Boalia & Bupetia*. 6. To theſe we may add their *Votivos Ludos*, which were alſo performed in the Honour of ſome God, upon ſome ſpecial vow made. For whenſoever the *Romans* did undertake any deſperate war, then did ſome *Roman* Magiſtrate *Vovere ludos, vel templa*, conditionally that they got the conqueſt: whiles the Magiſtrate uttered this his vow, he was ſaid *Vota nuncupare*, or *facere vota*, i. e. to make a ſolemn vow unto the Gods: the vow being thus made he which made it did write it in paper, and with wax faſtned it to the knees of their Gods, thereby binding himſelf the more ſtrongly to the performance; and this in *Pliny* his phraſe is *ſignare vota: Juvenal* termeth it *Genua incerare deorum*, Sat. 10.

[o] Alex. ab Alex. l. 6. c. 19.
[p] L. 56. c. ult.
[q] Feſt. vid. Hoſpin. de Orig.
Turneb. adv. l. 1. c. 17.

After this he was ſaid to be *Voti reus*, i. e. conditionally bound and obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt; yea, after that the thing craved had been obtained, then was he ſaid, *Damnatus voti, vel voto* (i. e.) ſimply bound to the performance of the vow; ſo that by conſequence, *Damnari voti, vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chief and principal games which were meerly *ſacri*, tending to Religion: the ſecond ſort were *Ludi honorarii*, of which in the next Chapter.

CAP.

CAP. 7.
De Gladiatura.

SUch ſports and plays which were performed by private men upon their own purſe and charges, they ſeeking thereby to wind themſelves into the affections of the common people, and to make way for their own preferment and honour, were termed [a] *Ludi honorarii*; and howſoever any game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature were for the moſt part, either *fencing* or *ſtage-plays*; *fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the Latine word [b] *Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon termed *Munerarii*. The firſt original of this fencing and ſword-playing, to the killing of one another, hath been derived [c] from a cuſtomary practice among the Heathens, at the Burials of their friends who were perſwaded that the ſhedding of mans Blood would be propitiatory for the ſoul deceaſed; hence would they buy captives and ſlaves, purpoſely to be ſacrificed at Burials: afterwards, that this wicked ſpectacle might be the more pleaſant and delightful, they changed their ſacrifice into a fencing with Art, where the combatants did fight for their lives. This particular kind of *Fencers* were called *Buſtuarii*, from *Buſtum*, the place where dead mens bodies were burned: but ambition and cruelty made theſe bloody ſpectacles in after-ages more frequent, inſomuch that prizes at laſt were plaid not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea, they were given as legacies by will and teſtament unto the people. Theſe prizes have continued many dayes together, and the number of the Combatants ſometimes exceeded number. At the firſt none would thus hazard their lives but Captives, and fugitive ſervants, which were enforced there-

[a] Iſaac Caſaubon. in Suet. Aug. 32.

[b] Lipſ. Sat. l. 1. c. 7.

[c] Tertul. It. Servius in Æneid. 10.

thereunto, being bought for that purpose; afterward those that were free-born suffered themselves to be hired, for which cause they were termed *Auctorati*, hirelings; [d] yea, Noblemen themselves sometimes, by reason of their decayed estates, sometimes to demerit the Emperor his love endangered their lives in this fight. Those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, yea, and to be burnt: unto which [e] *Horace* alludeth:

Quid refert; uri, virgis, ferroque necari?
Auctoratus eas, an turpi clausus in arca?

The manner of this bloody spectacle was thus: The Master, or exhibiter thereof, did by a publick Bill give notice unto the people, what day the Prize should be performed, how many couples were to combate, what their names, *&c.* thereby to procure the greater expectation, and concourse of people: of this speaketh [f] *Sueton. Munus populo pronunciavit in filiæ memoriam.* [g] Yea, they did in tables hanged in publick view, paint and represent not only the description of the place, but also the very form and gesture of the Fencers:

—— velut si
Revera pugnent, feriant vitentque moventes
Arma viri. Horat. lib. 2. Sat. 7.

Upon the day appointed when all met, then were the weapons brought forth, and those were of two sorts: *Lusoria*, or *Exercitoria tela*, such as were the spear and wands, or cudgels; that they might toss the one, and fence with the other, and shew their feats of activity; all being but preparations to that more solemn and dangerous fight ensuing. The Greeks call'd them ἐσφαιρωμένα ἀκοντία, because of the little Balls tied at the sharp end of the Weapons to prevent dangers. Others were [h] *Decretoria tela*, so called, *Quia hac velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encountred each other for life or death; and therefore sometimes they are called *Pugnatoria.* [i] *Seneca* speaketh

d Sen. ep. 100.
e Serm. 27.
f Sueton. in Julio.
g Plin. 357.
h Lips. Sat. l. 2. c. 19.
i Sen. ep. 117.

eth of both, *Remove iſta luſoria arma, decretoriis opus eſt.* And that the Apoſtle doth not allude to both, I dare not gainſay, 1 *Cor.* 9. 26, 27. where he ſaith, οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλ' ὑπωπιάζω μου τὸ σῶμα. He did not beat the Air, and flouriſh with thoſe luſorious and preparatory weapons, but he did truly fight againſt his natural corruption, to the wounding and ſubduing of it, for ſo ὑπώπια ſignifieth *putrified wounds.* That phraſe of [l] *Seneca*'s alluding to the fore-flouriſhing, is not much unlike, *Aliud eſt ventilare, aliud pugnare.* This fore-skirmiſh with cudgels was properly termed *præludium. Megara* ſpeaking of *Hercules* his Conqueſt over the two Serpents, aſſaulting him being as yet an Infant, ſaith, [m] *Præluſit Hydræ*, i. e. that Combat was but the Prologue, Preface, or Introduction to that greater which ſhould enſue between him and the *Hydra.* Afterwards when they betook themſelves to naked Weapons, and to a real fight, then were they ſaid *Dimicare ad certum*, and *Verſis armis pugnare.* This word [n] *Verſis* being put for *Tranſmutatis.* In the act of fighting, they did frame and compoſe their body according to the rules of their Art, for the better warding of themſelves, and the readier wounding of their adverſary. This frame and poſture of the body, was by a peculiar name called *Status*, or *Gradus*, whence aroſe thoſe elegant Metaphors, *Cedere de gradu, demigrare de gradu*, to change ones purpoſe, and as it were to draw back from what he formerly intended. In like manner we ſay, *De mentis ſtatu dejicitur*, or *deturbatur*: he is driven to change his mind; or in general, he is amazed. In the conflict, oftentimes the Sword-players after they had received any dangerous wounds, laid down the Weapons; which though in extremity was a token of cowardiſe, neither were they thereupon acquitted or diſcharged: but this depended upon the conſent either of the Emperor, or the people, or the Maſter of the Shew. This diſcharge was properly called *Miſſio.* Such was the cruelty of thoſe times, that many prizes were proclaimed, wherein they fore-ſignified,

k Suid. in voce ὑπώπια.

l Sen. l. 3. cont.

m Sen. Herc. fur. verſ. 221.

n Lipſ. Sat. l. 2. cap. 19.

ed, that ſuch diſcharges ſhould neither be craved, nor granted: whereupon [o] *Auguſtus Cæſar* made a Decree, wherein *Gladiatores ſine miſſione edi prohibuit.* Thoſe combatants that overcame, received by way of reward, ſometimes money, ſometimes a garland, or Coronet of Palm-tree, wound about with certain woollen ribands, called *Lemniſci*, the coronet it ſelf was therefore called [p] *Palma lemniſcata*, and hence figuratively hath *Palma* been tranſlated to ſignifie the Victory it ſelf; and ſuch a man as hath often got the prize, we ſay proverbially, that he is *Plurimarum palmarum homo.* The reaſon why the Palm-tree, rather than any other tree, ſhould be given in token of Victory, is rendred by [q] divers approved Authors to be this: becauſe the Palm tree, though you put never ſo ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometimes the reward given by the people was one of thoſe Wands or Cudgels uſed in the fore-skirmiſh. That Wand was properly called *Rudis*, and it was given in token of liberty, ſignifying thereby, that he ſhould thenceforward lead his life free from ſhedding of blood: alluding to which cuſtom, this word [r] *Rudis* hath been uſed to ſignifie any other kind of freedom or diſcharge: Whereupon *Horace* ſaid of himſelf, that he was *Rude donatus*, *i. e.* diſcharged from his pains in Poetry. Laſtly, ſometimes he that conquered received *Pileum*, a Cap. And here it will not be amiſs, to note the difference between *Palma*, *Miſſio*, *Rudis*, and *Pileus*. *Palma* was only a token of victory, not of liberty or diſcharge. *Miſſio* was not a full diſcharge, but a kind of vacation, or reſpite granted upon requeſt, untill the morrow, or ſome other time: again, it was granted to thoſe that were conquered, not to the Conquerors. *Rudis* was a token of a full diſcharge from bloody combats, whereby a mans life might be endangered: but yet with this diſtinction, that if it were beſtowed upon free Citizens, hired to be Actors in theſe Maſteries, then were they thereby reſtored to their free-

dom

[o] Suet. Aug. 49.

[p] Fran. Syl. in orat. pro Sext. Roſc.

[q] Ariſt. Prob. 7. Plut. ſymp. 8. q. 4. Aul. Gel. l. 3. c. 6.

[r] Eraſ. Adag. Rudem accip.

dom alſo, which formerly they forfeited by undertaking ſuch baſe conditions: to others which were formerly ſervants, or Captives, it was only a token of liberty and diſcharge. Notwithſtanding, ſometimes upon favour, ſuch ſervants or Captives obtained together with their diſcharge from ſuch fights, a priviledge alſo of enfranchiſement whereby they were thenceforward incorporated among free Citizens; the token thereof was *Pileus*, for then they received a Cap: which later obſervation helpeth for the underſtanding of *Tertullian*, where he ſaith, [f] *Qui inſigniori cuiq; homicida leonem poſcit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which ſpeech the unjuſt and unreaſonable practice of thoſe Heathens is diſplayed, whiles they judge a manſlayer to be expoſed to Lions and wild beaſts, and yet notwithſtanding will reward the bloodineſs of ſword-players. Theſe Fencers fought with divers manner of Weapons, and accordingly had ſeveral names, the chief of which we read are theſe: 1. *Retiarii*, ſo called from *retejaculum*, ſignifying a float-net uſed in fiſhing, becauſe this ſort of Fencers did fight with a caſt-net in one hand, to catch and claſp about their adverſaries head; and a three-forked engine in the other, which they uſed inſtead of a ſword: of this *Juvenal* ſpeaketh, *Sat.* 8.

[f] Tertul. de ſpect. c. 21.

——— *Movet ecce tridentem.*

They did always fight in their coats; whence the *Epitheton* floweth, *retiarii tunicati*. The reaſon why they bore up and down Spunges, which *Tertullian* calleth *ſpongia retiariorum*, may be for the drying up of the blood, and wiping or ſtopping of the wounds: which uſe of ſponges, [t] *Pliny* noteth. Now becauſe theſe *Retiarii* were ſo lightly armed, they were compelled every time they ſtrook with their net, to retire back until they recovered their net again; and hence the ſecond ſort of Fencers which fought with them, were termed [u] *Secutores*, *ab inſequendo*, from following and purſuing theſe *Retiarii*. The weapons wherewith theſe *Secutores*

[t] Plin. 3. c. 21.

[u] Lipſ. ſat. l. 2. c. 7.

tores did fight, were a Target to keep off the Net of the adversary; a Sword and a Helmet. 3. *Thraces*, so called from the *Thracian* Weapons which they used; their Target was round and little, called *Parma*: it was at first in use among the [u] *Thracians*, and afterwards so proper to this sort of sword-players, that [x] *Parmularius* signifieth such an one as favoured this company or faction of Fencers. Their sword was a crooked falcion, termed by them *Sica*. [y] The *Roman* souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger; but the form of the *Sica* was always crooked, according to that, *Sica θράκιον ξίφος ἐπίκαμπες*. Privy murtherers practising the killing of men, may seem to have used the lesser, as a pocket-dagger; such are those *Sicarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*; they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their Weapons were a sword, a target, an helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight; it is derived from the Greek ὅπλον, *vel* ὅπλα, *arma*, & μάχομαι. Until *Augustus* his time they were named *Samnites*; their Armor was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probatores*; these usually fought with the *Hoplomachi*; their Armor was a sword, a target, an helmet, and boots on both legs. For as the footmen among the Souldiers, so likewise some of the sword players used boots for the safeguard of their legs: these boots were made of [z] iron; and so common amongst the *Grecians* in War, that boots alone are oftentimes put to express the *Grecians* whole armature, as appeareth by that useful *Epitheton* in *Homer*, εὐκνήμιδες Ἀχαιοὶ, i. e. *Bene ocreati Græci*: these boots they wore sometimes on both legs, sometimes on one, according as the manner of the fight required. 7. *Essedarii*, such as fought one against another out of waggons; so called from *Esse-*

dum,

u Turneb. adv. lib. 5. c. 10.
x Suet. in Domit. c. 10.
y Alex. ab Alex. l. 6. c. 22.
z Veget. Vide Lipsi. de milit. l. 3. dia. 7.

dum, a waggon or chariot. 8. *Andabati, quaſi ἀναβάται aſcenſores*, becauſe they did fight on horſe-back, or out of chariots. This ſort of Fencers did fight winking; whence ariſeth that adage, *Andabatarum more pugnare*: the phraſe is fitly uſed, when two ignorant perſons are hot in contention about that which neither underſtandeth. 9. *Dimacharii*, called alſo *Orbelæ*; they fought each againſt the other with two ſwords apiece, as the firſt name importeth. 10 *Laquearii*, ſuch as fought with ſwords and halters; the uſe of the halters was the ſame as the *Retiarii* made of their nets, to caſt about their adverſaries neck or arm, that they might the eaſier wound them with their ſword. Of all theſe ſorts of Fencers [l] *Lipſius* treateth largely, to whom I refer the Reader. Only here let me take notice, that it was in the power of the people, to diſcharge any of theſe Combatants in time of the fight; which diſcharge they ſignified *premendo pollicem*, by holding down their thumb: or elſe to adjuge him to continue the fight, though in never ſo great danger; and this later they ſignified *convertendo pollicem*, by turning up the thumb;

[l] Lipſ. Sat. 2.

——*Et verſo pollice vulgi*
Quemlibet occidunt populariter. —— Juven. Sat. 3.

Moreover, that there might be always in readineſs a ſufficient number of Sword-players, hence were there Schools erected, into which Captives, fugitive-ſervants and notorious Offenders, were ſometimes condemned, ſometimes ſold. The maſters of theſe ſchools were called *Laniſtæ*; the Scholars or under-Fencers trained up there for more publick and dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this ſence to ſignifie the whole company of under-Fencers belonging to one School; and the Maſter of defence is for this reaſon more than once by [m] *Sueton.* called *Pater familias*. Moreover, when one challenged another to theſe combats, they ſignified their challenge by beckoning their little finger. *Horace* alludeth unto this:

[m] Suet. Calig. 26. It in Domit. 10.

Crispinus minimo me provocat, accipe si vis,
Accipe jam tabulas. Lib. 1. Serm. 4.

This must be understood of a beckoning, and that with the little finger, for otherwise in time of the fight, if either of the Combatants did hold up his finger, [n] he signified thereby that he did yield, and give place unto his adversary: some think that *Persius* had respect unto this custom, in that phrase,

[n] Alex. ab Alex. l. 4. cap. 26.

——— *Digitum exere peccas.* Sat. 5.

CAP. 11.
De Ludis Scenicis.

THe second sort of Plays bestowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reason of this name *Scena* may be seen before. [o] The first institution of them was occasioned by reason of a great sickness, which by no medicinary help could be removed. The *Romans* superstitiously conceiting, that some new games or sports being found out, the wrath of the Gods would thereby be unarmed. [p] Whereupon, about the four hundredth year after the building of *Rome*, they sent for certain stage-players out of *Hetruria*, which they called *Histriones*, from the *Hetrurian* word *Hister*, which signifieth such a Player. *Quia Hister Thusco verbo ludus appellatur, id nomen Histrionibus est additum*, Polydor. *de inven. l.* 3. c. 13. Concerning the divers kinds of stage-plays I read of four, called by the Grecians, *Mimica, Satyra, Tragœdia, Comœdia:* by the Romans, *Planipedes, Attellanæ, Prætextatæ, Tabernariæ*; in English, *Fable, Mimical, Satyrical, Tragical, Comical.* These *Mimical* Players did much resemble the Clown in many of our English stage-plays, who sometimes would go a tiptoe, in derision of the mincing dames; sometimes would speak full mouthed to mock the Country-clowns; sometimes upon the tip of their tongue, to scoff the Citizen. And thus, by the imitation of all ridiculous gestures or speeches, in all kinds

[o] Lazius de Repub. Rom. l. 10. c. 11.

[p] Alex. Gen. dier. l. 6. c. 19.

kinds of vocations, they provoked laughter; whence both the plays and players were named *Mimi*, from μίμος an imitator, or one that doth ape-like counterfeit others; as likewise they were called *Planipedes*, because the Actors did enter upon the stage *Planis pedibus*, i. e. [z] *excalceati*, bare-footed. The second sort of plays were called *Satyræ*, [a] from the lascivious and wanton Country Gods called *Satyri*, because the Actors in the *Satyrical* plays did use many obscene Poems, and unchaste gestures, to delight their spectators. Afterward these kind of Actors as we may conjecture, did assume such liberty unto themselves, that they did freely, and without controulment, sharply taxe and censure the vices even of Kings as well as of the Commons; insomuch that now we call every witty Poem, wherein the wit and manners of men are sharply taxed, *A Satyre*, or *Satyrical* Poem. [b] *Satyra mordax fuit & salsum genus carminis.* These plays were also called *Attellanæ*, from the City *Attella* in *Campania*, where they were often acted. The third sort of stage-plays were called *Tragœdiæ*, from τράγος a Goat, and ᾠδὴ, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextatæ*, from *pretexta* a certain *Roman* Robe, which these Actors did use to wear in their plays. The fourth sort were *Comœdiæ*, from Κῶμαι which signifieth villages, and ᾠδὴ, because those kind of Actors did go up and down the Country acting those *Comedies* in the villages as they passed along. They were likewise called *Tabernariæ*, *à tabulis*, i. e. from the boards or pentices wherewith they were sheltred from the weather whiles they were acting. These two last sorts of plays, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities, wherein they agree; otherwise the properties or notes of distinction, by which they differ. I find three sorts of parts, wherein they agree, namely, *partes primariæ, accessoriæ, circumstantes*; parts principal, accessary, and circumstances,

z Alex. ibid.

a Antesign. in suis obser. de metris comicis Teren. præfixis.

b Vid. Eras. adag. Κωμῳδεῖσθαι σατυρικοὶ

cumſtances, which were not ſo truly parts, as accidental ornaments added to beautifie the plays. The principal parts are four, in reſpect of the matters treated of; for, as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the firſt part called πρότασις, which word ſignifieth no more than a propoſition or declaration. But when the play inclineth to its heat and trouble, then enſueth the ſecond part, called ἐπίτασις, which ſignifieth the intention or exaggeration of the matter. The third part is called κατάστασις, *i. e.* the ſtate and full vigour of the play. The laſt part, which is an unexpected change into a ſudden tranquillity and quietneſs, is called κατας τροφὴ, which by a *Metaphor* hath been tranſlated to ſignifie the end or period of any other thing; or rather the inclination unto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the players forſaking the ſtage, the parts were five, namely, the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have been this, that the Spectators might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For thoſe breaches and chaſmes between each Act, were made up and ſupplied, either by the *Chorus*, or *Muſick*. Where we muſt note, that every *Tragedy* and *Comedy* muſt have five *Acts* and no more, according to that of *Horace*:

Neve minor quinto, neu ſit productior actu
Fabula, ——

Again, we muſt remember, that it is not neceſſary that the πρότασις ſhould always be contained in the firſt Act, though many times it happeneth ſo; for in *Plautus his Bragging Souldier*, the *Protaſis* is found in the ſecond Act; and ſo likewiſe are the other three parts, *i. e. Epitaſis*, *Cataſtaſis*, and *Cataſtrophe*, their bounds unbounded.

Theſe

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every Act. The definition of a Scene being [c] *Mutatio personarum*: whence we call a subtile *Gnatho*, which can humor himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now amongst the *Romans* it was thought unfit, that above three persons should come on the stage in one Scene.

[c] Vid. Eras. Adag.

——*Nec quarta loqui persona laborat.* Hor.

The *partes accessoriæ* in a *Comedy* are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the *Prologue*, which is either ὑποθετικὸς, such as doth open the state of the Fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the Fable, or the Poet unto the people; or lastly, ἀναφορικὸς, such as shall refute the objections and cavils of Adversaries. The third is *Chorus*, which speaketh between each Act; and this *Chorus* may consist either of one, or many speakers, and that either male or famale; [d] but with this caution, that if a male be to be commended, then must the *Chorus* consist of males: if a female be to be commended, then must it consist of females. And always whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

[d] Suet. Aug. c. 40.

——*Non quid medios intercinat actus,*
Quid non proposito conducat & hæreat apte. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing or such like, to delight the Spectators with the greater variety: whence *Hor.*

Si discordet eques, media inter carmina poscunt
Aut ursum, aut pugiles. ——

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco.* Hor. The fourth and last accessory part was *Mimus*, the Clown or fool of the Play. Of all these parts, a Tragedy hath only

only a *Chorus*. The *partes circumſtantes*, or accidental ornaments were four, common to both, *Titulus*, *Cantus*, *Saltatio*, *Apparatus*, *id eſt*, the Title of the Play, Muſick, Dancing, and the beautifying of the Scene. By the Scene in this place, I underſtand the partition between the Players veſtry, and the ſtage or ſcaffold. This partition at the acting of a Tragedy was underpropped with ſtately culumns and pillars, and beautified with paintings, reſembling Princely Buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, Country-Cottages and private Buildings were painted in the outface of the partition. In the *Satyrical* Plays, the painting was over-run with ſhadows of mountains and woods: The * firſt of theſe partitions they called *Scenam Tragicam*, the ſecond *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, which may be collected out of † *Anteſignanus*, are theſe: firſt in reſpect of the matter, becauſe a *Tragedy* treateth of exilements, murthers, matters of grief, *&c.* a *Comedy* of Love-toys, merry fictions, and pretty matters; the one being Σεμνῶν πραγμάτων, the other οὐχὶ σεμνῶν πραγμάτων. In a Tragedy, the greateſt part of the Actors are Kings and Noble perſons, in a Comedy, private perſons of meaner ſtate and condition. The ſubject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a Comedy commonly the beginning is turbulent, and the end calm. Another difference which *Anteſignanus* hath omitted, is behoveful for us to know, namely, that the Tragedians did wear upon the ſtage a certain ſhooe, coming half way up the leg in manner of buſkins, which kind of ſhooe was called by them *Cothurnus*; and from that cuſtom it hath been occaſioned that *Cothurnus* is tranſlated to ſignifie a *Tragical* and lofty ſtyle, as *Sophocleo digna Cothurno*, matters beſeeming *Sophocles* his ſtyle, and ſometimes a Tragedy it ſelf. The Comedians did uſe an high ſhooe coming up above

* Alex. Gen. dier. l. 5. c. 16.

† Anteſig. in ſuis obſerv. de metris comicis Terent. præfixis.

Nigris medium impediit crus Pellibus Horat. Ser. l. 1. Sat. 6.

above the ankle, much like a kind of ſhoes which plowmen uſe to wear, to keep themſelves out of the dirt. This kind of ſhooe is called *Soccus*; by which word ſometimes alſo is ſignified a Comedy, as,

Hunc Socci cepere pedem grandeſq; Cothurni. Hor.

g All theſe ſorts of ſtage-plays, both *Mimical, Satyrical, Tragical* and *Comical*, if they were acted according to the Grecian rite and cuſtom, then were they called *Palliatæ*, from *Pallium*, a certain mantle which the Grecians did uſe to wear; if according to the *Roman* manner, then were they called from the Roman gown *Togatæ*. g Ante ſg. ib.

CAP. 12.

De Trojano ludo, ſive Troja.

IT was a cuſtom among the *Romans*, ſometimes in the year, to have a general muſter of the younger ſort, who meeting in the Cirque exerciſed their running, racing, riding at tilt, and other ſuch like feats of activity, whereby they might be trained up for their better ſervice in the War. They choſe a Captain, one or other of Noble birth: he was called [a] *Princeps Juventutis*. They divided themſelves into diſtinct Companies, ſometimes marching forward one againſt another, ſometimes retiring backward; ſometimes skirmiſhing, ſometimes imbattelling themſelves in one form, ſometimes in another, as if it were a true field pitcht. A large and full deſcription hereof we have in *Virg. Æn.* 5. This game was called *Trojanus ludus*, or ſimply [b] *Troja*, without the addition of any other word, becauſe *Aſcanius*, *Æneas* his ſon, firſt brought it out of *Troy*, according to that of *Virgil* in the fore quoted place,

a Hoſp. de orig. feſt.

b Suet. in Jul. c. 39.

Hunc morem, curſus, atq; hæc certamina primus
Aſcanius, longam muris cum cingeret Albam,
Rettulit, & priſcos docuit celebrare Latinos.

Among other ſports uſed at this time, [c] there was alſo a kind of Moriſk dance, wherein the younger men danced

c Alex. ab Alex. l. 6. c. 19.

ced in harneſs, after a warlike manner, being thereby trained to exerciſe all parts of their body, by ſundry geſtures, as well to avoid avenues and defend themſelves, as to annoy and offend the Enemy. This kind of Dance is generally called *Pyrrhica ſaltatio*, becauſe it was invented by [f] *Pyrrhus*. Yea, [g] ſome ſay, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay, *Alexander* confoundeth both theſe, with thoſe other games termed *Juveniles ludi*. But doubtleſs herein he was miſtaken; for thoſe *Juvenilia* were inſtituted by [h] *Nero* i at the ſhaving of his beard, and had not their name, becauſe young men were the chief actors, but becauſe old men would now by the practice of youthful ſports, turn young again. [k] The actions at this time were ſo far from ſavouring of Military Diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

f Plin. l. 7. c. 56.
g Serv. in l. 5. Æn. It. Alex. ab Alex. loco. ſupra citato.
h Sueton. in Neron. c. 11.
i Cæl. Rhod. l. 19. c. 22.
k Roſin. Rom. ant. l. 5. c. 22.

CAP. 13.

De teſſeris, talis, & latrunculis.

BEfore we treat of the game called *Ludus teſſerarius*, it will not be amiſs, 1. to clear the word *teſſera* from all ambiguity. The word hath four remarkable ſignifications, all alluding to matters of Antiquity. Firſt, it ſignified a watch-word among the ſouldiers in the camp, whereby they diſcerned their enemies, or ſpies, from their own fellows. [o] *Alex. ab Alexandro* giveth many examples hereof: *Auguſtus Cæſar* in his camp gave for his watch-word, *Venus genetrix*: *Pompeius magnus* gave for his, *Hercules invictus*, &c. and this was called *Teſſera militaris*. Secondly, there was *Teſſera frumentaria*, a certain ticket or token given by the Magiſtrate unto the poor, at the tendring whereof, [p] at the beginning of every month, certain doles and meaſures of corn were given: it is evident that at firſt there were ſuch monethly diſtributions of corn, even by that endeavor of

o Alex. ab Alex. l. 4. c. 2.
p Suet. Aug. cap. 40.

Auguſtus,

Auguſtus, who for the avoiding of trouble, would have reduced all to three ſet diſtributions in the year, but prevailed not. Sometimes inſtead of Corn, or haply over and above the Corn, there were at certain times doles of money given to the poor; which dole whoſoever received, tendred his token or bill of exchange, termed *Teſſera nummaria*; theſe two laſt acceptions, though they may be diſtinguiſhed, yet becauſe they both tended to the relief of the poor, I have joyned them together. 3. There was *Teſſera hoſpitalis*, a certain token of wood or ſuch like matter, which uſually was cut in two by thoſe who had engaged themſelves mutually to entertain each other, whenſoever entertainment ſhould be craved: yea, this wooden ticket or tally being mutually accepted, it was lawful for their poſterity, bringing this token, to challenge hoſpitality. Thus he in *Plautus* having formerly uſed *Antidomus* as his hoſt, after *Antidomus* his death, he cometh unto *Antidomus* his adopted ſon, not doubting of entertainment; for ſaith he, *Deum hoſpitalem, ac teſſeram mecum fero.* Hence from this cuſtom, or tendering a token when hoſpitality ſhould be craved, that Adage hath been derived, *Teſſeram hoſpitii conſregit*, i. e. he hath broken the league of hoſpitality. Laſtly, *Teſſera* ſignifieth a *Dy*: where we muſt note, that the word, *Alea*, which commonly is tranſlated a Dy, is a general word, applied equally both to the *Teſſera* and the *Tali*, to denote the uncertainty of both games. *Teſſera* properly ſignifieth at Dy; *Talus*, an huckle-bone, ſuch wherewith children play a *Cockall*. In determining the ſeveral chances in theſe playes, Authors are not only diverſe, but in many things contrary each to other; neither can any certainty be gathered from their writings: whether my conjectures, drawn from comparing their ſeveral and contrary writings, may give light for the right underſtanding of decayed knowledge herein, I ſhall willingly ſubmit my ſelf to the cenſure of the judicious. The ſeveral chances which I read of, are theſe,

some arising from the number of the points in the Dye, as *Senio*, *Momus*. More usually amongst the Grecians, [q] these two were termed κῶς, & χίος. ὁ μὲν γὰρ χίος ἑνὸς ἦν, ὁ δὲ κῶς ἓξ, i. e. *Chius*, answered our *Ace*; *Cous*, our *Sice*. And this is confirmed by a proverb in use amongst the *Grecians*: Κῶς πρὸς χίον, which the Learned interpret to be a comparison of unequals, a Pygmy with a Giant: others named from the number, I read not of. Perhaps they played not with a single Dye but with three, as we use in *Passage*; whence their chances might have their name not from the number of points in each several Dye, but from them all being Cast. But that the *Tesseræ* had points in them, appeareth by the testimony of [a] *Turnebus*: And hence *Numeri* is sometimes used for *Tesseræ*:

Seu ludet numeroſque manu jactabit eburnos.
Ovid. 2. de Art. Amand.

That they used more *Tali* in their plays, than they did *Tesseræ*, [b] *Turnebus* observeth from that Verse:

Non sum talorum numero par tesseræ. Mart. 14. Epig. 15.

[c] *Cælius Rhodiginus* speaketh more distinctly, saying, that in their play they used three *Tesseræ*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same [d] *Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by [e] *Turnebus*; he being of opinion that these *Tali* had not points in them as the *Tesseræ*, saith, *Pro numeris effigies animalium habebant, ut vulturum, aut regulorum.* That they were termed *Vulturii*, is probable by that of *Plautus*:

Tace parumper, jacit Vulturios quatuor.
Plaut. curcul. Act. 2. Sce. 3.

But that the Cock-all bones should be called *Reguli*, I somewhat doubt; for no question but *Regulus* and *Basilicus* in this place signified one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of Authors herein,

[q] Suid. in voce κῶς.

[a] Turn. adv. l. 5. c. 6.

[b] Turn adv. l. 6. c. 10.

[c] Cœl. Rhod. l. 20. c. 17.

[d] Cœl. Rhod. l. 6. c. 18.

[e] Turn adv. l. 5. c. 6.

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tessera* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, & *Chius*; The most fortunate chance, *Venus*, or *Basilicus*. [f] *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cock-all-bones at their feasts, for the choice of their *Modiperator*, or Master of the feast, which should prescribe Laws for drinking to the whole company.

Venus arbitrium —— ——
Dicet bibendi, saith *Horace*.
Jacto Basilicum, propina magnum poculum.
Saith *Plaut. curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called συμποσιαρχος, but also βασιλευς, *King*, *Prince*, or chief Commander at the Table? This cast was then thought to be thrown, when all four Cock-all-bones appeared not one like the other, but all with different faces. [g] *Venus consurgebat ex talis quatuor jactatis, ubi diversam omnes ostendissent faciem*: with whom accordeth [h] *Turnebus*: *Venus erat, cum nullis eodem vultu stabat talus. Hercules* was also a lucky throw; but whether the same as *Venus*, I have not yet learned.

The games with the *Tessera* I make no question were divers; the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use, where the just number of eight seemeth to have been the chief Cast: it was called [i] *Stesichorius jactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his Tomb, erected at great charges for greater

[f] Lipſ antiq. lect. 3. c. 11.

[g] Cœl. Rhod. l. 20. c. 27.

[h] Turn. ad. l. 5. c. 6.

[i] Cœl. Rhod. l. 20. c. 27.

ter magnificence, *Ex octonis constabat omnibus*, i. e. consisted of many eights, to wit, *eight Angles*, or corners; *eight Columns*; *eight steps*, or grieces. In their common game, the most fortunate throw is thought to have been three *Sices*, we call it in *Passage*, a *Royal pass*, whence it was commonly called *Senio*.

——— *Quid dexter senio ferret*
Scire erat in votis, damnosa canicula quantum
Roderet, angusta collo non fallier orca. Pers. Sat. 3.

Which one place of *Persius* giveth light to this in three things. First, that the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cock-all bones, as *Venus* is, we may fitly render it a *Royal Pass*. Secondly, the losing cast, *Canis* or *Canicula*, in English a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cock-all-bones, was by casting them not immediately out of their hand, but out of a dish or narrow-mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Persius* calleth it *Orca*, and describeth to have a narrow mouth, and a strait neck. *Horace* applieth it to the *Tali*, Sat. 7. l. 2.

Mitteret in Pyrgum talos.———

Calling it *Pyrgus*, using the Greek word πύργος a Tower or Steeple, so called from πῦρ fire, because the form there, of being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the games; the chief cast, as I said, was thought to be when three *Sices* appeared: which opinion is strengthened by that common Proverb: *Aut tres sex, aut tres tessera*, i. e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the Proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*: for as *Rhodiginus* speaketh, *In tesserario ludo Midas jactus*

jactus erat fortunatissimus: with whom accordeth *Dempster*, proving it out of *Suidas*: [k] Dempst. ant. Rom. l. 5. c. 1.

Μίδας ὁ ἐν κύβοισιν εὐκλόητα Θ.

Midas in tesseris consultor optimus.

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l.* 13. 1.

Senio nec nostrum cum cane quassat ebur.

It is noted by [l] *Erasmus*, that as often as an *Ace* hapned to be thrown together which a *Sice*, so that *Senio* and *Canicula* appeared together at one throw, it was a losing cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*; which unless we do, it will be a matter of great difficulty to make congruity of sense. His words are, *Talis enim jactatis, ut quisq; Canem aut Senionem miserat in singulos talos, singulos denarios in medium conferebat, quos tollebat universos qui Venerem jecerat.* Turn *Aut* into *Et*, the sense is obvious. Look who threw an *Ace* and *Sice* together, for every Dye he staked and laid to the stake a Denier; which he took up and swooped all clean, whose luck it was to throw *Venus*. *Euripides*, as I take it, was not a chance, but a kind of game, much resembling that which is in use with us, called *one and thirty*: The number of that game was *forty*, and the game called *Euripides*, because *Euripides* was one of the forty chief Governours in *Athens*, when the thirty Tyrants were deposed. The reason of my conjecture is taken from [n] *Rhodiginus*, whose words are these: *Euripides numerum continebat quadragenarium, quoniam videtur unus fuisse Euripides praefectorum quadraginta, post triginta Tyrannos Athenis exactos*: from all we may note, that the *Jactus pronus*, or *Jactus plenus*, that is, the lucky cast, we may English it, *Take all*, was commonly called *Senio*, *Venus*, *Cous*; the *Jactus supinus*, or *Jactus inanis*, was likewise commonly known by no other name than *Canis*, *Canicula*, or *Chius*, we may English it *Blank*.

[l] Erasm. adag. Chius ad Co. um.

[n] Cœl. Rhod. l. 20. c. 17.

Some-

o Barthol. Merula in Ovid. de art. amand. l. 2.

o Some have delivered their mind touching these plays thus: that the *Tali* or Cock-all-bones had but four faces or sides, and therefore yielded four chances, and no more: the first is called *Canis* or *Canicula*, answering to our *Ace*, and it was the worst of all; the opposite unto it they termed *Venus*, or *Cous*, and is accounted the best: *Merula* against sence understandeth the number of seven by it, it may stand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deux*, or *Cinque*. This opinion at first, I confess seemed plausible to me; but how fully it discovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cock all bones, as they were termed *Jactus & Missus*, casts: so also were they called p *Manus*, figuratively, as every stroke in the fencing-school was termed *Manus*. The first acception of *Manus* is proved out of q *Suetonius*, where *Augustus Cæsar* speaketh thus: *Si quas manus remisi cuiq; exegissem, aut retinuissem, quod cuique donavi, vicissem*, &c. If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, &c. The second acception of *Manus* is confirmed by r *Quintilian*, who calleth the second, third, and fourth strokes in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike; He hath had a good or bad, lucky or unlucky *hand*. Another game there was of like nature played with Table-men: the word *Latrunculus* translated a Table-man, did properly signifie an hired Souldier, such an one as served for pay: whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination ἀπὸ τῦ λατρεύειν, *à serviendo*. In this sense the word is used ſ by *Plautus*:

p Lipſ. Sat. l. 2. cap. 20.

q Suet. Aug. 72.

r Quint. l. 5. cap. 14.

ſ Plaut. mil. glor. Act. 1. ſcen. 1.

Nam Rex Seleucus me opere oravit maximo,
Ut ſibi latrones cogerem, & conſcriberem.

Secondly, because Souldiers are so prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been used

uſed alſo to ſignifie a thief or robber. And thirdly, in a borrowed ſenſe, theſe words are applyed to ſignifie table-men or cheſs-men; becauſe this game hath the expreſs form and repreſentation of a war or battel, fought between two Armies; Inſomuch that *t Pyrrhus* King of *Epire*, being skilful in plotting ſtratagems, firſt taught his ſouldiers that art of projecting, by plays and repreſentations thereof in the table-men. *u* Some are of opinion, that it was firſt invented in the ſiege of *Troy*, by *Palamedes*, who that he might keep his ſouldiers in better order, allowed them this kind of recreation, whence theſe Cheſs-men are ſometimes called *Palamedianci calculi*: they were made ſometimes of wax, ſometimes of glaſs, ſometimes of other matter. The game ſeemeth to have been the very ſame with that which we call *Cheſs*. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow. *Petaurum, Diſcus, Pila, Trochus, Nuces.* πέταυρον, from whence this Latine word *Petaurum* cometh, ſignifying properly a perch or pole, on which poultry rouſt: and hence the rope or ſtaff on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignified alſo a certain hoop or wheel, through which active perſons would run ſwiftly, their body ſo warily carried, that in their running they would not touch the hoop or wheel: to this purpoſe *Alex. Neaph.* ſpeaketh, a *Fuit quoq; Petauri ludus admirationis præcipuæ, cum per circulos quiſpiam veloci curſu tranſcolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practiſed in this kind of activity, were thence call'd *Petauriſtæ*. *Diſcus* was a round ſtone in manner of a bowl, ſometimes made of iron, or braſs, whoſoever could caſt it farthеſt got the victory; the players thereat were called διηκοβόλοι from διήκω and βάλλω to dart, or caſt out any thing. *Pila*, it ſignifieth a ball, and of it there were divers ſorts. 1. *Harpaſtum*, which we may Engliſh a *Foot-ball*. *b* This ball being put down in the middle, two companies of young men ſtrove who ſhould drive

t Donat. in Teren. Eun. Act. 4. ſc. 7. ad illud, Idem hoc jam Pyrrhus factitavit.

u Suid. in voce τάβλα.

a Alex. ab Alex. l. 3. c. 21.

b Alex. ab Alex. ibid.

drive it thorow the others goal. 2. *Pila*, which ſignifieth a diſtinct kind of ball, ſo called from the hair with which it was ſtuffed. 3. *Follis*, a light kind of ball, ſo called becauſe it was ſtuffed with a bladder; with this old men and young children played. 4. *Paganica*, this had his name *à pagis*, from villages and countrey towns, where it was chiefly in uſe, it was ſtuffed with feathers; of all theſe, *Mart.* 14. 45.

Hæc quæ difficilis turget paganica plumæ
Follè minus laxa eſt, & minus arcta pila.

5. *Trigonalis*, and this I think both the *Pila* and the *Follis* were called, in oppoſition to *Paganica*; the reaſon of the name is taken from the form of the Tennis-Courts, which becauſe they were three-ſquare, in manner of a triangle, *c* hence was the ball with which they played in ſuch Courts termed *Trigonalis*. The Players themſelves were termed *Factores*, thoſe that did caſt the ball into the Court, were called ſimply *Datores*; and *d* hence *datatim laudare*, is to play at ball, or elſe we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let down the ball, did *ſuram dare*, hold out their leg, to have the ball flung at it. *Trochus*, it ſignifyeth a Top: as it was commonly called *Trochus* from τρέχω to run, becauſe of the ſwiftneſs thereof: and likewiſe *Turbo* in Latine for the ſame reaſon; ſo ſometimes it was called *buxum*, from the matter whereof it was made, as

c Cœl. Rhod. l. 20. c. 18.

d Turneb. adv. l. 7. c. 4.

——*Buxum torquere flagello.* Perſ. Sat. 3.

Nuces, with Nuts they had many Plays, ſome of which are at this day in uſe. One holding an uncertain number of Nuts in his hand, his fellow that plaid with him was to divine whether the number were *Even* or *Odd*. This *Horace* calleth

Ludere par impar ——

The Grecians ζυγὰ ἢ ἄζυγα. Of this *Ovid de nuce*,

Eſt etiam, par ſit numerus qui dicat an impar:
Ut divinatas auferat augur opes.

Some-

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise,

Quatuor in nucibus non amplius alea tota est,
Cum sibi suppositis additur una tribus.

Yea, these nut-games were so many, and so peculiar to children, that striplings growing into mans estate, were still reputed children, untill they forsook these nut-sports, whence *nucibus relictis* sounds as much as childishness being past: and this is thought to be the reason, why the *s* bride-man, as soon as he was married, used to cast nuts among the people; intimating thereby a farwell to such childish pastimes. Many other childish games they had, among which one resembled our *Cross and pile*; *f* they termed it *Capita vel navim*; because the coyn which they fillipped or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

e Rosin. ant. Rom. l. 5. c. 27.

f Anton. Constant. in Ovid. Fast. l. 1.

CAP. 14.

De mensis & conviviis Romanorum.

BEfore we proceed unto the description of the *Roman* tables, we will explain those five terms *Jentaculum*, *Prandium*, *Merenda*, *Cœna*, & *Commessatio*. Which five words do signifie the five several feedings each day, which children, old men, labourers, travellers, and such like, did usually observe; for others of healthier and stronger constitution, did commonly eat but one meal, at the most but two, in the day. *Jentaculum* signifieth their break-fast, and it had its name, like as our English hath *à jejunio*, from fasting: In former times it was called *a silatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine, which they had at break-fast: for as *b Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

a Rosin. ant. 5. c. 27. l.

b Plut. in sym. l. 8. q. 6.

was the ſame with them as *Jentaculum*, and thus much the Greek word ἄριστον ſignifying a dinner, doth intimate, it being ſo called, *quaſi* ἀὔριστον, from ἀύριον, which ſignifyeth the morning. The name *Prandium*, which we render a dinner, was ſo ſaid *quaſi* πρὸ ἐνδίου, ſignifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may Engliſh it our afternoons beaver; it was called alſo *Antecœnium*, becauſe it was taken a little before ſupper. *e Merenda eſt cibus qui declinante die ſumitur, quaſi poſt meridiem edendus, & proxime cœnæ; unde & antecœnium à quibuſdam dicitur.* The fourth time was their ſupper; called *cœna, quaſi* κοινὴ, which ſignifieth as much as *Common*, d *quia antiquitus ſeorſim ſolebant prandere Romani, cœnare cum amicis.* Their fifth and laſt time of feeding, was called in Latine *Comeſſatio* by ſome, by moſt *comeſſatio, à comedendo.* e *Joannes Triſtinus* ſaith, that it is a beaver taken after ſupper, or a night drinking. But the chief feaſt, whereat they *f* gave entertainment, being their ſupper, we will conſider theſe three things therein. Firſt, *accumbendi vel diſcumbendi rationem*, that is, the manner of their lying at ſupper (for they did neither ſtand, nor ſit at table, as we do:) ſecondly, the form and faſhion of their table; and laſtly the parts of their ſupper. The place where they ſupped, was commonly called *Cœnaculum à cœna*, as our *dining chamber* is ſo called from our *dinner*. It was alſo called *Triclinium*, or *Biclinium*, from κλίνη a bed; for ſometimes there were 3. beds, ſometimes but 2. about the table upon which the gueſts did ſit, or rather lie along. In this dining Parlour was placed a table, ſometimes made quite round, and for the common ſort of people it was made of ordinary wood, ſtanding upon three feet; but for men of better rank, it was made of better timber, inlaid ſometimes with wood of divers colours, ſometime with ſilver, and it ſtood upon one whole intire foot made of Ivory, in the form of a great Lion or Leopard, *&c.* Unto the meaner ſort of theſe tables *Horace* alludeth;

——— *Modo*

e Juſt. Lipſ. cent. 1. ep. 65.

d Plut. ſym. l. 8. q. 6.

e In orat. pro M. Cœlio.

f Lazius de Repub. Rom. li. 3. cap. 3.

——*Modo ſit mihi menſa tripes. Hor. Ser.* 13.

Unto the other, *Juvenal, Sat.* 11. *ver.* 122.

——— *putere videntur*
Unguenta atq; Roſa, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the form of an half Moon, the one part thereof being cut in with an arch or ſemi-circle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, *g* which as it appeareth by certain marble monuments, was in old time made like a *Roman* C. Hence is that of *Mart. lib.* 14. 87. *g* Rom. ant. l. 3. c. 28.

Accipe lunata ſcriptum teſtudine Sigma.

If any man ſhould demand the reaſon, why they cut their table in that form, I muſt confeſs I have not read any reaſon in any author bearing ſhew of probability. My conjecture is this; it is agreed upon by moſt Authors, that in the round tables one quarter was reſerved void from gueſts, that the waiters might have a convenient room to attend: thereupon it ſeemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been tranſlated diverſly by divers writers, as it appeareth by *Lipſius* in the fore-quoted place. By ſome it hath been taken for the Parlour, or ſupping chamber, ſo *Lipſius* in his Antiquities; by others for the ſupper or feaſt it ſelf, ſo *Cælius*. By *Lipſius* ſince it hath been thought a certain place, erected in the manner of a ſemi-circle, or half Moon, againſt which they did place one continued bed, able to take ſix or ſeven gueſts. But *Brodæus* and *Ditmarus*, in my opinon, have more truly taken it for the table it ſelf. About the table that was perfectly round, were placed three beds covered with tapeſtry, or ſome other kind of covering, according to the wealth and ability of the perſon; and thus

———*Strato diſcumbitur oſtro*:

The beds being ready furniſhed, the gueſts lie down in manner as followeth. Each bed contained three perſons,

ſons, ſometimes four, ſeldom or never more, except at their great and more ſolemn feaſts. If one only lay upon the bed, then he reſted the upper part of his body upon his left Elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermoſt did lie at the beds head, laying his feet behind the ſecond his back; the ſecond reſted his head in the others boſom, having a cuſhion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the gueſts was not great, ſeldom times exceeding nine: whence *A. Gellius* *h* ſaith, that the number of the gueſts ſhould begin with the *Graces*, and end with the *Muſes*, that is, they muſt not be fewer than three, nor more than nine. This alſo hath been the reaſon of that adage, *Septem convivium, novem convitium facium.* *Heliogabalus* ſeemeth to have been delighted with the number of eight, *k* whence he invited to ſupper *octo calvos, octo luſcos, octo podagroſos, octo ſurdos, octo raucos, octo inſigniter nigros, octo inſigniter longos, octo præpingues, & octo naſutos, delectatus illo Græco proverbio,* ἀπαρτοκτώ. Thoſe that were not invited, but came of their own accord unto a feaſt without bidding, by *Plautus* they are called *Muſcæ*, flies; by others they are called *Umbræ*, ſhadows. Hence is that of *Horace*,

——Locus eſt & pluribus umbris.

The party which invited the gueſts, ſometimes expreſſed his earneſtneſs by pulling and haling one by the cloak: whence *Stuckius* obſerveth, that when they would ſhew how earneſtly they were invited, they would ſay *Penulam mihi ſcidit*, He tore my cloak off my ſhoulder. Again on the other ſide, when they would ſhew how eaſily the gueſt was intreated, they would ſay, *Illius ego vix tetigi penulam, tamen remanſit.* Before the gueſts ſate down, their ſhoes were uſually pluck'd off, that they might not foul the bed on which they did lie *l*;

h A.Gel. noct. At. l. 13. c. 11. Tribus aut novem miſcentur cyathis pocula commodis, qui muſas amat impares, Ternos ter cyathos attonitus petet Vates, tres prohibet ſupra Rixarum metuens tangere Gratia Nudis junctа ſororibus. Hor. carm. l. 3. Od. 19.

i Alex. Gen. dier. 5. c. 22.

k Stuckius de convi. l. 4. c. 2.

l Teren. in Heautont.

Accurrunt

Accurrunt servi, soleas detrahunt,
Video alios festinare lectos sternere, cœnam parare.

m They did likewise gird their heads with Fillets and Hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy the head; for which reason, they did likewise *n* use Garlands of Ivy, and Myrtle-tree, and Roses: the coolness of which comforted the brain. These Garlands were also *Symbolum plenæ libertatis*, a token of their full liberty. The Carver in these Feasts was called from his artificial setting and ordering the Dishes upon the table, *Structor*: and from his artificial carving and cutting up of the Dish, *Carertor*. *Tryphaus*, as appeareth by *Juven. Sat.* 11. was famous for his skill in carving: he did set up a School, teaching such as came to him by Rules and Precepts, and also shewing them the manner of carving: which that he might the better do, he furnished a Table with several Dishes of Meat, formed and fashioned in Wood, with a dull Knife, shewing his Scholars after what manner, and with what gesture of their body they should cut up this or that Dish. This Supper because of the wooden Dishes of Meat was called *o Cœna ulmea.* They divided their Supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served Mulberries, Lettices, Sausiges, and always *Eggs*: as likewise in the last course (whether the second or third) were served Nuts, Figs, Grapes, but always *Apples*: *p* whence we say proverbially, *Ab ovo ad mala*, from the beginning of the Feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main Supper, and the chief dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase it was called *q Fundus & fundamentum cœnæ.* Their first mess they called the *proœmium*; the last, the *peilogue*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Cœl. Rhod. l. 27. c. 26.

n Plin. l. 6. c. 2.

o Stuck. de conv. l. 3. c. 3.

p Pancirol. l. rer. deperd. cap. de cibi capiendi modo.

q Stuc. 3. l. de conviv.

the second course, *αἱ δευτέραι φρονήσεις σοφώτεραι, Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia*: *Recta* in this place signifyeth as much as *vera*: thus ὀρθὸς among the Grecians sometimes signifieth *verus & sincerus*. The phrase intimateth that it was a true supper, opposed to that dole of meat distributed by Princes to the People, which from the pannyer or basket in which it was brought, was called *Sportula*; sometimes they distributed money instead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta*. Yea sometimes by *sportula* we may understand a light and short supper.

Turneb. adv. l. 5. c. 10.

Promissa est nobis sportula, recta data. Martial.

The reason why a great Feast should be termed *Cœna dubia*, is, because in such variety of dishes the Guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the Table.

LIB.

LIB. III. SECT. I.

Of the Roman *Aſſemblies.*

De Comitiis.

HItherto have we inſiſted upon the deſcription of the moſt remarkable parts of the *Roman* City, together with the ſeveral diviſions of the *Roman* people, as alſo the *Roman* Religion; where we have ſeen the general diviſions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewiſe of the *Roman* Games both greater and leſs. Now we are to proceed to that part of Government, which is political or Civil: where we will firſt ſpeak of their Aſſemblies called *Comitia*; then of their Civil Magiſtrates; afterwards of their puniſhments; and laſtly, of ſo many of their Civil Laws, as I have obſerved needful for the underſtanding of *Tully*, and that principally in his Orations. For the more eaſie conceiving of all which, I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*; the knowledge of which is needful for that which followeth.

CAP. 1.

De Anno & partibus ejus.

INasmuch as there cannot be a full knowledge of the *Roman* Assemblies, without some general understanding of the *Roman* year, and the general distinctions of the *Roman* days; it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called, *quasi Annulus*, because (as the Greek word ἐνιαυτὸς signifieth) ἐν ἑαυτῷ ἔστι, *id est*, *in se convertitur annus*: which was the reason why the *Ægyptians* in their mystical Cyphers (called *litera hieroglyphica*) did use the picture of a Serpent, having his tail in his mouth, to signifie a year. The time or space of this year hath been divers, according to the diversity of Nations. *a* Some allowed no more days to a year than we do to a month; whence that monthly space which the *Latines* called *Mensis* from *b* μήνη, signifying the Moon, they called *Annum Lunarem*. Some allowed four months, some six months, some ten. And thus *Romulus* measured his year, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widow commonly mourned for her husbands death; or lastly, from the multiplication of unites, which in simple number doth not exceed ten.

a Vid. Plin. l. 7. c. 48.

b Paul. Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,
Hoc anno statuit temporis esse satis.
Per totidem menses à funere conjugis uxor
Sustinet in vidua tristia signa domo. Ovid. Fast. l. 1.

Annus erat, decimum cum Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit.
Seu quod ad usque decem numerò crescente venitur,
Principium spatiis sumitur inde novis. Ovid. Fast. l. 3.

Thus

Thus *Romulus* his year contained of months ten, of days 304. But after this *Numa* added two Months:

At Numa nec Janum, nec avitas præterit umbras,
Menſibus antiquis addidit ille duos. Ovid. l. 1. Faſt.

Numa, *c* or as ſome ſay, *Tarquinius Priſcus*, perceiving that the months did not always fall out alike every year, but ſometimes the ſame month would happen in the Summer, ſometimes in the Winter; thereupon, after long ſtudy, and many inſtructions from the *Grecians*, finding the reaſon of this confuſedneſs, he added unto *Romulus* his year fifty days, ſo that the whole year afterward was divided into twelve months; becauſe the Moon had finiſhed her courſe twelve times in that ſpace; beginning their year then at *January*, becauſe then in his judgment was the fitteſt time to begin the year, when the Sun being fartheſt from us, did begin to turn his courſe, and to come unto us again; which is about *January*, the Sun being about the *Tropick* of *Capricorn*. Afterward, upon a ſuperſtitious conceit of the odd number, *Numa* added one day more unto *January*; ſo that whereas at the firſt *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty four days, now the *Roman* year contained three hundred fifty five days: which computation falling out too ſhort for the true year by the ſpace of ten days and ſix hours yearly, it occaſioned in every eighth year the interpoſition of Three whole months, which they called their Leap-year. *d* This confuſedneſs afterward *Julius Cæſar* by long ſtudy remedied, adding the odd ten days unto *Numa Pompilius* his year. And leſt the odd ſix hours might at laſt breed diſorder in their computation, he appointed that every fourth year a whole day ſhould be inſerted, next after the three and twentieth of *February*; which inſerting they called *Intercalatio*, from an old Verb *Intercalo*; and that day they called *Intercalarem*. Now the day following, being the four and twentieth of *February*, was always the ſixth of the Kalends of

c Vid. Georg. Merulam in orat. pro Q. Ligario.

d G. Merul. in orat. pro Q. Ligario.

March; *e* and therefore becauſe of the interpoſition of that day, they called the Leap-year *Annum biſextilem*, that is, the year wherein there falled out two days, which they called *Sext. Calend. Martii*. And the day thus interpoſed, was called *dies biſſextus*. This computation, which *Julius Cæſar* found out, we have embraced, and do at this day follow, calling our year *Annum Julianum*, *f* and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and ſometimes this great year is called, *Annus vertens*, *à vertendo*, becauſe it is always turning and running on. *g* Moreover we muſt remember, that the *Romans* did begin their year at *March*; whence that month, which ſince hath been called *Julius* in the honour of *Julius Cæſar*, was by them called *Quintilis*, becauſe it was the fifth month; and that month which ſince hath been called *Auguſtus*, in the remembrance of *Auguſtus Cæſar*, was by them called *Sextilis*, becauſe it was their ſixth month. Thus then the great year being divided into twelve months, every month was divided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper unto the *Romans*, *h* that *Auguſtus Cæſar*, when he purpoſed never to do what he was requeſted, was wont by way of Proverb to ſay, that he would do it *Ad Calendas Græcas*, that is to ſay in our Engliſh Proverb, *At the later Lammas*; *never*. For the better underſtanding of which, I ſhall inſert three common Verſes:

Principium menſis noſtri dixere Calendas:
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2, 3, 4, 5, 6, and 7. of theſe four months, *May*, *October*, *July*, and *March*, were called the Nones of that month: but in all the other months the Nones contained but the 2, 3, 4, and 5 days; ſo that the fifth day (for example ſake) of *January*, was called *Nona Januaria*, or *Januarii*, the fourth *Pridie Nonarum*, or *Nonas Jan.* for they uſed always to ſay, *Pridie Cal. Pridie Nonar.*

e G. Merul. in orat. pro Q. Ligario.

f Roſin. ant. Rom. l. 4.

g Hubert. l. 3. ep. fam. 18.

h Suet. Oct. Aug. c. 17.

Nonar. and *Pridie Iduum*, inſtead of *ſecundo Cal. Non. Id.* The third day of *January* they called *tertium Nonarum*, *vel Nonas Januar.* the ſecond day of *January* they called *quartum Nonarum*, *vel Nonas Januar.* After the *Nones* followed the *Ides* which contained eight days in every month, ſo that the 15 day of the four aforeſaid months was called *Idus Maii*, *Idus Octob.* *Idus Julii*, and *Idus Martii.* In all the other months the 13 day was the *Ides*; as to proceed in *January*, the 13 day was called *Idus Januar.* the 12 *Pridie Iduum*, *vel Idus Januar.* the 11 *tertio Iduum*, or *Idus Jan.* the 10 *quarto Iduum*, *vel Idus Jan.* the ninth, 5 *Id. Jan.* the eighth, 6 *Id. Jan.* the ſeventh, 7 *Id. Jan.* the ſixth, 8 *Id. Jan.* After the *Ides* then followed the *Calends* of the next month. As the 14 of *January* was *decimo nono Calendarum*, or *Calendas Februar.* the 15. *decimo octavo Calend. Feb.* the 16. *decimo ſeptimo Cal. Feb. &c.* Where we muſt note, that as often as we uſe *Pridie*, *tertio*, *quarto*, or any of thoſe numerals with an Accuſative caſe, as *Pridie Calendas*, &c. the *Grammarians* ſay, that this Prepoſition *Ante* is eclipſed. Again, every month had in its compaſs three great Markets, which becauſe they were obſerved every ninth day, were called *Nundinæ*; and the later of them being the greateſt it is called by *Athenæus* τριτη ἐκκλησία, which we may render *Trinundinum*, or *Trinum nundinum.* It followeth now that I ſhould treat of the days, which are the leſſer parts of the year: where before we proceed, we will conſider the parts which the *Romans* divided their day into.

Dies

Dies Civilis continet

Lucem, cujus partes sunt

- *Diluculum.* The break of day.
- *Mane.* The full morning.
- *Ad meridiem.* The fore-noon.
- *Meridies, quasi Medius dies,* Mid-day; or *quasi Merus dies,* Perfect-day, noon.
- *De Meridie.* After-noon.
- *Solis occasus.* Sun-setting.

Noctem, cujus partes sunt

- *Crepusculum.* The Dusk of the evening.
- *Prima fax.* Candle tinding.
- *Vesper.* The night.
- *Concubium.* Bed-time.
- *Nox intempesta.* The first sleep.
- *Ad mediam noctem.* Towards midnight.
- *Media nox.* Midnight.
- *De media nocte.* A little after midnight.
- *Gallicinium.* Cock-crowing.
- *Conticinium.* All the time from Cock-crowing to the break of day.

The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam,* every watch containing three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the *Romans,* upon a superstitious conceit and observation of misfortunes, and evil events falling out on some days, and more happy success upon other, have called the former sort of days *Atros dies,* or *dies postriduanos & Aegyptiacos: ἀποφράδας Graeci nuncupant, perinde ac si nefandos dicas.* The reason why they were called, *Postriduani,* was because they thought *Dies postridie Calendas, Nonas, & Idus, i. e.* The next day after the Calends, Nones, or Ides of every month, to be unfortunate: and the latter sort they called *Albos dies, h* borrowing the name from the *Scythians,*

g Alex. Gen. l. 1. c. 12.

h Vid. Eras. adag. unione signare.

thians, who uſed to chalk out the fortunate days in their Kalendars with white Characters: whence *Horace* ſaith,

Creſſa non careat pulchra dies nota.

Other-ſome, as their unfortunate and unlucky days, were noted with a coal or black Character, according to that, ——*Nigro carbone notatas.*

Again, their Kalendar, diſtinguiſhed ſome days for Holy-days, which they called *Dies feſtos*, feſtival-days, or *dies Feriatos*, & *Ferias*, Holy days, *i* becauſe they did upon ſuch days *Ferire victimas*, i. e. offer up ſacrifices. Others were diſtinguiſhed for working-days, which they called *Profeſtos, quaſi procul à feſtis.* The third diſtinction was of half holy-days, which *intercidendo*, they called *Dies interciſos*, as it were days cut aſunder: the one part of them being allotted for worldly buſineſs, the other for holy and religious exerciſes. *k* Theſe *feriæ* were either *privatæ* and ſo they belonged ſometimes to whole Families, as *Familiæ Claudiæ, Æmiliæ, Juliæ*, &c. ſometimes to private perſons, as every one his birth day, particular expiations, *&c.* or elſe they were *publicæ*, ſuch as the whole Common-wealth did obſerve; and they were of two ſorts, the one called *Anniverſariæ*, which were always to be kept on a certain *l* day, and thereupon they were called *feriæ ſtativæ*; the other *conceptivæ*, which were arbitrary, and ſolemnized upon ſuch days as the Magiſtrates and Prieſts thought moſt expedient, whereof the *Latinæ feriæ* were chief: which *Latinæ feriæ* were kept on Mount *Alban* to *Jupiter Latiar*, for the preſervation of all the Latine people in league and confederacy with the *Romans*, and were ſolemnized in memory of the truce between thoſe two nations. Thoſe *Feriæ*, which were called *Imperativæ*, & m *Indictivæ*, becauſe the *Conſul*, *Prætor*, or chief *Pontifex*, according to their pleaſure, *imperabant & indicabant has*, i. e. commanded them, may in my opinion be contained under that number of *Feriæ conceptivæ*, in reſpect of the uncertainty of them. Another diſtinction of days is found in the *Roman Kalendar*, to have

i Aſcenſus in ep. 3. illuſt. tit. l. 2.

k Roſin ant. l. 4 c. 3.

l Alex. Gen. dier. l. 5. c. 7.

m Alex. Gen. dier. l. 6. c. 7. Serv. Æn. 11.

have been *in Faſtos*, whole Court or Leet-days; *Ex parte Faſtos*, half Court-days; *Nefaſtos*, Non Leet-days, though this word *Nefaſtos* be often expounded unlucky, as in that of *o Horace* touching the tree, *Ille & nefaſto te poſuit die*, that is, he planted thee in an unhappy time. Theſe days were called *à fando*, from ſpeaking; becauſe upon thoſe days which were *faſti*, the *Prætor*, or L. Chief Juſtice might lawfuly keep Court and adminiſter Juſtice, which was not done without the ſpeaking of theſe three words, *Do*, *Dico*, *& Addico*: p *Dabat actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we muſt note, that ſometimes theſe Court-days were alſo called *dies Comitiales*, becauſe that *q* upon every ſuch day which was noted in the Kalendar for a Comitial day, if the publick Aſſemblies were not held, it was lawful to keep Court: whence not only *Comitialis dies* doth ſignifie a Law-day, but *Comitialis homo* alſo doth ſignifie a wrangler in the Law, or a litigious perſon.

o Carminum l. 2. Ode 13.

p Joach. Camerar. pro Flacco.

q Berſman in ſuis annot. in Rom. Caten. ad finem Ov. Faſt.

CAP. 2.

De Comitiis idque Calatis præcipue; de Rogationibus, & antiqua ſcribendi ratione.

EVery aſſembly of all the *Roman* people being called together by a lawful Magiſtrate to determine any matter by way of giving voices, is *à coeundo* termed *Comitia* ſimply, without the adjection of any other word or *Comitia Calata*, that is aſſemblies called together, from καλέω or the obſolete Latine Verb *Calo*, which ſignifieth to call; though afterward thoſe aſſemblies only which were held either for the inauguring of ſome Pontiff, ſome *Augur*, ſome *Flamen*, or him that was called *Rex ſacrorum*, or for the making of their wills and teſtaments were called *Calata Comitia*. Whence the will that was made in theſe aſſemblies was called *Teſtamentum Calatis Comitiis*. This kind of aſſembly is ſometimes called *Comitia* a *Pontificia*, and *Comitia Sacerdotum*, in that ſenſe as other

a Joan. Triſtinus in orat. pro Cœlio.

others are called *Conſularia*, or *Ædilitia Comitia*, namely, becauſe the Pontifs in theſe, as the *Conſuls* and *Ædiles Plebis* in the other, were choſen. There follow three other kinds of aſſemblies: for either the people did aſſemble themſelves by Pariſhes, called *Curiæ*; or by hundreds, called *Centuriæ*; or by Wards called *Tribus*. The firſt ſort of Aſſemblies they called *Comitia Curiata*, the ſecond *Comitia Centuriata*, the laſt *Comitia Tributa*: [b] where by the way we muſt note, that that thing which was determined by the *major* part in any Pariſh, hundred, or ward, was ſaid to be determined by that whole Pariſh, hundred, or ward; and that which was determined by the *major* part of Pariſhes, hundreds or wards, was ſaid to be approved *comitiis Curiatis, Centuriatis, vel Tributis*. Secondly we muſt note, that neither children, until they were ſeventeen years old, nor old men after the ſixtieth year of their age, were allowed to ſuffrage in theſe Aſſemblies; whence aroſe that adage, *Sexagenarii de ponte dejiciendi*, [c] and old men were hence called *Depontani*, for the explication of which ſee before. Here before we ſpeak of thoſe three ſeveral kinds of Aſſemblies, we will conſider the manner of their proceedings, in propounding caſes unto the Aſſemblies. [d] The cuſtom was at firſt, that the *Romans* ſhould beſtow their ſuffrages *Viva voce*; but afterward that every one might with freer liberty give his voice, they commanded certain Wooden Tables, wherein the names of thoſe that ſtood for Offices were written, to be carried about; every ſuffrager receiving ſo many Tables as there were ſuitors; then did the people give back that Table with whom they would ſuffrage. But if a Law were to be enacted, then every ſuffrager received two Tables, in the one of which were written theſe two great letters V. R. in the other was written a great Roman A. thoſe who delivered theſe Tables unto the people, did ſtand at the lower end of thoſe bridges; (which were erected up for the ſuffragers to aſcend unto the *ovilia*) whence they were called *à diribendo, i. e.* from diſtributing, *Diribitores*. At the other end of the

[b] Sigon. de jure Rom. l. 1. c. 17.

[c] Pars putat ut ferrent juvenes ſuffragia ſoli: Pontibus infirmos præcipitâſſe ſenes. Ov. Faſt.

[d] Philip. Beroaldus in orat. Phil. 11.

Bridges were placed certain Chests or little Coffers, into which the suffragers which did approve the Law did cast in the first Table; those that disliked it, did cast in the second; for by those two letters, V. R. which were written in the first, is meant *Uti Rogas*, i.e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second Table was meant *Antiquo*, i. e. I forbid it, the word signifying as much as *antiquam volo*, I like the old Law, I love no innovations. The Tables being thus cast into the Chests, certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *Nongenti*) did take the Tables out of the Chests, and so numbred the voices, by making so many points or pricks in a void Table, as they found Tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbred, it was pronounced by the common Crier what was decreed. Because the use of those tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these Tables. It is certain that a long time the use of Paper was not known, whence men were wont to write sometimes upon the inward rindes of trees called in Latine *Libri* (so that to this day we call our Books *Libri*, because in old time they were made of those rindes of trees): sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Egypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing-paper. Shortly after the invention of this Egyptian Paper, *Ptolemy* the King of *Egypt* restrained the common making thereof, because of the great emulation between him and *Eumenes* King of *Pergamus* concerning their Libraries: not long after therefore *Eumenes* having found out the making of Parchment, he made use thereof in writing, and called it from the place *Pergamenta*. At this time

e Plin. l. 13. c. 2.

a Plin. l. 13. c. 11.

time did the *Romans* use to write in Tables of wood, covered with wax, called in Latine *cerata tabula*. They wrote their Wills and Testaments in Tables, [b] *Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according to, or against the Testator his Will. Because of the wax wherewith these Tables were covered, *cera* is often used in the same sense; *Hæredes prima cera*, i. e. *prima tabula, & in primo gradu instituti*, by which words I think are understood such heirs as [c] *Alexander* called *Hæredes ex toto asse*, that is, heirs to the main inheritance, opposing them to those which did receive only legacies, whom he called there *Hæredes in ima cera, secundos hæredes, & ligatarios*. [d] *Sylvius* not upon improbable grounds doth think that *Tully* doth understand by *Hæredes secundi*, such heirs as were nominated to succeed the chief heir or heirs if they dyed. They wrote their accounts in Tables, hence *Tabulæ accepti & expensi*, signifying reckoning Books. These count-books were [e] of two sorts, some monthly, without order or method, called *Adversaria*: *Quod adversa parte etiam scriptis implerentur*. Others perpetual, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their statutes also in Tables, whence *Tabulæ publicæ* are Englished statute-books, or other Books of Record. Those writings or instruments, which the Senate or Emperour caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them [f] Letters of protection: They wrote their inventories of goods set to sale, in Tables, calling them *tabulas auctionarias*: yea they indited their Epistles and common Letters in Tables: insomuch that *tabellæ* are expounded missive Letters; and *tabellarius*, which properly signifieth a carrier of Tables, is now used to signifie a Letter-carrier: yet they [g] sometimes wrote also in plates of lead εἰς ἐλάσμασι μολύβδου γεγραμμένοις. And thus we may understand what [h] *Suetonius* meaneth by *charta plumbea*, concerning

[b] P. Pillitar. in orat. pro R. Cœciana.

[c] Alex. Gen. dier. l. 1. c. 1.

[d] Fr. Sylv. pro Cluent.

[e] Cœl. Rhod. l. 12. c. 21.

[f] Fr. Sylv. in orat. Catilin.

[g] Suidas in voce μόλυβδος.

[h] Suet. Ner.

cerning all these, [i] *Pliny* writeth excellently. Before the use and making of Paper was invented, men wrote at first in Palm-tree leaves, afterwards in the rindes of certain trees; afterwards publick monuments were recorded in volumes or rolls of lead, at least private matters, on fine linnen or wax. [k] The manner how they sealed their letters was thus: they did bind another Table unto that wherein the inditement was, with some strong thread, sealing the knot of that thread with wax; whence *Cicero* saith, *Linum inscidimus*, that is, we opened the letters; hence also is that of *Plautus*, *Cedo tu ceram ac linum age, obliga, obsigna cito.* [l] The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not alwaies wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies*, [m] *Signum ille animadvertit in cretula.* [n] Lastly, they wrote their Books in tables, whence from them we do at this day call our Books *codices à caudicibus*, *caudex* signifying properly the trunk or stock of a Tree, whereof these Tables or Books were made. We must note withal, that they wrote not with Ink or Quill, but with an instrument of steel or iron, having [o] a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones as [p] *Isidore* noteth by that Law, *Ceram ferro ne cadito.* And as we use this word *Manus*, to signifie the writing it self, according to that of [q] *Tully*, *cognovit manum, & signum suum*: so in the like sense we use this word *Stylus*, to signifie the peculiar tenour or strain of phrase which any man observeth in the composing of an Oration, Epistle or such like,

[i] Plin. l. 13. c. 11.

[k] Fr. Sylv. in orat. Catil. 3.

[l] Just. Lipſ. Ep. inſt. c. 4.

[m] Cic. 4. in Verrem.

[n] P. Pellitar. in orat. pro A. Cœcinna.

[o] Vid. Eraſm. Adag.

[p] Herman. Hugo de primaſcrib. orig. cap. 9.

[q] Cic. orat. cont. Catil.

in

in which ſence *Tully* uſeth it, as the antitheton to *gladius* in that ſpeech of his, *Cedat forum caſtris, otium militiæ, ſtylus gladio*, though in another place he uſeth it to ſignifie, if not a ſword, yet a pocket dagger, as, *Et ſi meus ille ſtylus fuiſſet*; [f] in which place *Stylus* doth ſignifie as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtom of antient writing, it will not be amiſs to note, that uſually at the end of their Books, they Printed a little mark, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that marke thus, ſaying, that it is [t] *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh uſually ſubjoyned to the end of Books. [u] Others are of opinion, that the antient *Romans* did in the like manner adorn the frontiſpiece, or beginning of their Books with the picture of an half-Moon; which obſervation giveth light not only to that adage, ἀπὸ τῆς ἀρχῆς μέχρι τῆς κορώνιδος, from the beginning to the ending; but alſo to that of *Martial. l.* 10.

Si nimius videor, ſeraq; coronide longus
Eſſe liber; legito pauca, libellus ero.

And that of *Ovid.*

Candida nec nigra cornua fronte geras.

For in *Turnebus* his judgement thoſe half-Moons prefixed were called *Cornua*. Howſoever this may be true touching the daſh, or character at the end of the Book, and that it was termed *Coronis*; yet I doubt whether any ſuch half-Moon was uſually prefixed in the beginning of Books, or whether ſuch an half-Moon were denoted by the Latine word *Cornu*. More probable is his opinion, [x] who treating of this very matter, ſaith that in old time a whole Book was written in one continued Page, neither did they then cut their Books into many leaves, and bind them up in that manner as we do; but that one intire Page in which alone the Book was written, was wont to be rolled up upon a ſtaff, faſtned at the end thereof, in manner as many large Maps are now

[f] Cic. orat. pro Muræn.
Mic. Toxita in orat. Phil. 2.
[t] Cœl. Rhod. l. 15. c. 20.
[u] Turn. adv. l. 22. c. 10.
[x] Pyr. hierog. l. 31.

now adaies with us: hence it is *à volvendo*, that we call our Books *Volumina*, Volumes. This ſtaff on which the Book is rolled was called *Umbilicus*; the ſame word ſignifieth a navel, which becauſe it is the middle part, and as it were the centre of a mans body, hence approved Authors uſe the word to ſignifie the middle of any thing; and haply that name was firſt given this ſtaff, becauſe when the Book was rolled up, the ſtaff was the middle thereof: howſoever, becauſe it was faſtned alwaies at the end of the Page, hence *Umbilicus*, eſpecially when it is applied to a Book, ſignifieth the end thereof, as *Horace*, *ad umbilicum ducere*, to bring to an end. The two pummels or ends of this ſtaff, which did jet out and appear on each ſide of the Volume, they called *Cornua*; and they were wont to be tipt with Silver, or Gold, or otherwiſe adorned. The Title which was the beginning of every Book, was termed *frons*. This ſeemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*,

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we have digreſſed, it remaineth that we ſhould declare the manner how they enacted their Laws. All the Romans, though free Citizens, had not power and authority of preferring the Law, but only eight of their Magiſtrates, which they called *Magiſtratus Majores*, namely the *Prætor*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunes*, the *Kings*, and the *Trium-viri*: unto theſe eight were added one of thoſe whom they entituled *Magiſtratus minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrates thought it fit to prefer a Law, then did he firſt write it down at home, and conſult with ſome Lawyer, whether or no it might be for the good of the Common-wealth, whether it ſhould not weaken any former Law, or whether it was not formerly included in ſome other Law, *&c.* Theſe and many other cautions were to be conſidered before it was preferred;

ferred; yea ſome would have the approbation of the whole Senate after the advice of their Lawyer, though divers times that hath been omitted: and the Lawyer alone allowing it, the Law was hanged out publickly in the Market-place for the ſpace of three Market-daies, which kind of publiſhing the Law, was termed *Legis promulgatio, quaſi provulgaio*: during which time of promulgation, reaſons were alledged *pro* and *con* by the ſpectators, and all the people had ſo much time as to conſult of the conveniency thereof, and every one upon juſt reaſon had free liberty to admoniſh him that preferred the Law, either to amend it, or to ſurceaſe the propoſal. After the third Market-day (for unleſs it were upon an extraordinary occaſion, no aſſembly might be called upon a Market-day, becauſe of the country folks buſineſſes, they alſo having freedom of ſuffraging) the Magiſtrate did convocate the people to that place where the Law was to be propoſed; there the Town-Clerk, or Notary, reading the Law, the common Cryer proclaimed it, then did he which promulged it, make an Oration unto the people, perſwading them that it might paſs. Sometimes others of his friends would ſecond him with Orations in his behalf; as likewiſe others that diſliked it, would by Orations diſſwade the people, ſhewing the inconveniency thereof. After the Orations had been ended, an Urn or Pitcher was brought unto certain Prieſts there preſent, into which were caſt the names of the Tribes, if the *Comitia* were *Tributa*, or of the Centuries, if they were *Centuriata*; of the Pariſhes, if *Curiata*: then *ſortibus aquatis*, that is, the lots being ſhaken together, they drew their lots: and that Tribe or Century whoſe name was firſt drawn, was called *Tribus vel Centuria prærogativa, à prærogando*, becauſe they were firſt asked their voices. *Turneb.* interpreting that of *Tully*, *Majores voluerunt prærogativam ejus eſſe juſtorum comitiorum*, interprets it, That the Romans did ſo depend upon the prerogative Century, that they would alwaies declare him *Conſul* that was choſen by them.

them, *ad l.* 5. *c.* 23. That *Curia* upon which the first lot fell, was call'd [q] *Principium*, because that *Curia* did first suffrage: those Tribes upon whom the other lots fell, namely the 2, 3, 4, *&c.* were termed *Tribus jure vocata*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century is said to have [r] *Omen prærogativum*: which good fortune whosoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocata*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whilest the people were busie in their lottery, in the mean time if any [s] Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly thereupon should be dismissed; likewise they were dismissed, if either he which first promulged the Law did alter his opinion, or if the Consul commanded supplications to be offer'd up in the behalf of their Emperour, or any of those holy-daies, called *Feriæ Latinæ vel Imperatoriæ*, to be observed upon that day, or if any of the people assembl'd were taken with the Falling-sickness (by reason whereof that disease is called by the [t] Physicians at this day *Morbus Comitialis*.) Lastly, the Assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either by the civil Magistrates observing of signs and tokens in the Heaven, and that was called *Spectio*, and sometimes *De Cœlo observatio*; the very act of this observation, though no unlucky token did appear, dissolved the Assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augures* (amongst which Thunder was alwaies counted the unluckiest) at which time the Assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnunciatio* or *Nunciatio*, [u] *Obnunciabat, qui contra auspicia aliqua fieri nunciabat.* Both these kinds are easie to be collected out of that speech in *Tully*, [x] *Nos Augures Nunciationem solam*

q Rosin. ant. l. 6. c. 7.

r Cic. pro Muræn.

s Huber. in l. 1. Cic. Ep. serm. 2.

t Fuchsii inst. medicin. l. 3. sect. 1.

u Stadius in Flor. l. 3. c. 7.

x Cic. or. 1. Philip. 2.

ſolam habemus, Conſules & reliqui magiſtratus etiam ſpectionem. Here we may fitly in way of concluſion unto this tract, add a juſt difference to be obſerved betwen theſe phraſes, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang up a Law not yet asked, to the publick view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to uſe a certain Oration unto the people, to perſwade the conveniency of the Law; which Oration becauſe it began with this form of words, *Velitis jubeatiſve Quirites?* that is, O ye *Romans*, is it your will and pleaſure that this Law ſhall paſs or no? Hence was it termed *Legis rogatio. Ferre legem*, was when the Law had been approved of by the people, then to write it down upon Record, and ſo to lay it up in the treaſure-houſe: *y Cum approbata fuiſſet lex, in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Laſtly, *Figere legem*, was to publiſh the Law after it had been approved and recorded *z* by hanging it up in Tables of Braſs in their Market-places; or at their Church-doors. Hence it is that we uſe *a Tabulam figere* in the ſame ſenſe, namely to enact or eſtabliſh a Law, and *Refigere legem*, to diſprove or cancel a Law. *b* And that which was determined *Comitiis curiatis*, was termed *Rex curiata*; that which was *Comitiis centuriatis, Lex Centuriata*; that which was *Comitiis tributis*, was not called a Law, but *Plebiſcitum*.

y F Maturantius in Phil. 1.

z Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro l. 3. c. 1.

CAP. 3.
De Comitiis Curiatis.

Comitia Curiata were thoſe, wherein the *Roman* people being divided into 30. Pariſhes, did give their ſuffrages: They were ſo called from *Curia*, ſignifying a Pariſh. And until *Servius Hoſtilius* his time, who did firſt inſtitute the *Comitia centuriata*, all things which were determin'd by the ſuffrages of the people, were determined by theſe *Curiata comitia*: But after the other two ſorts

of Aſſemblies had been eſtabliſhed, theſe *Curiatæ* were uſed only either for the enacting of ſome particular Laws, or for the creating of ſome certain Prieſts called *Flamines*. For the better underſtanding hereof, we muſt remember, that though at firſt theſe thirty Pariſhes were parts of the three Tribes (each Tribe being divided into ten Pariſhes) yet in proceſs of time the increaſe of the *Roman* people was ſuch, that a great part of the *Roman* fields were filled with buildings and places of habitation, inſomuch that the Tribes of the *Romans* were increaſed to thirty five: but the Pariſhes (becauſe none that dwelt out of the City were tied to the rites and ceremonies of the *Roman* Religion) did not increaſe, ſo that the Pariſhes did not always remain parts of the Tribes. Hence it followeth, that all the *Romans* had not power to ſuffrage in theſe Aſſemblies, but thoſe alone who dwelt within the City, for no other could be of any Pariſh. The place where theſe Aſſemblies were held, was the great Hall of Juſtice, called from theſe Aſſemblies *Comitium*. Before theſe Aſſemblies were held, it was required that ſome lawful Magiſtrate for ſome competent time before-hand ſhould ſolemnly proclaim them, and the thirty Serjeants (each pariſh having for that purpoſe his Serjeant) ſhould call the people together: as likewiſe three *Augures*, or at leaſt, one ſhould be preſent to aſſure them, by their obſervations, either of the favour or diſpleaſure of the Gods. Upon theſe premiſſes the matter was propoſed unto the people, who if they liked it, then they proceeded unto their election; if otherwiſe they diſliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their Aſſemblies were preſently diſſolved.

CAP.

CAP. 4.
De Comitiis Centuriatis.

AS thoſe former Aſſemblies were called *Curiata à curiis*, ſo were theſe called *Centuriata à centuriis*. *Servius Tullius* cauſed a general valuation of every Citizens eſtate throughout *Rome*, to be taken upon record, together with their Age, and according to their Eſtates and Age, he divided the *Romans* into ſix great Armies or Bands, which he called *Claſſes*; though in truth there were but five of ſpecial note; the ſixth contained none but the poorer ſort, and thoſe of no worth or eſteem. The valuation of thoſe in the firſt *Claſſis*, was not under two hundred pounds; and they alone by way of excellency were termed *Claſſici*; and hence figuratively are our beſt and worthieſt Authors called *Claſſici ſcriptores*, Claſſical Authors. *d* All the others, though they were inrolled in the ſecond, third, or any other *Claſſis*; yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond Band was not under ſevenſcore pounds. The valuation of the third was not ſo little as an hundred pounds. Of the fourth not leſs than forty pounds. Of the fifth not leſs than twenty-five pounds. The ſixth contain'd the poorer ſort, whom *Horace* called *Tenuis cenſus homines*, men of ſmall ſubſtance, and alſo they were called *Proletarii*, *à munere officioq; prolis edendæ*, as if the only good that they did to the Common-weal, were in begetting of children; and ſometimes they were called *Capite cenſi*, that is, ſuch as payed very little or nothing at all towards Subſidies, but only they were regiſtred among the Citizens, as it appeareth by *e Sigonius*. Theſe ſix great Bands or Armies were ſubdivided into hundreds, called in Latine *Centuriæ*. The firſt *Claſſis* contained fourſcore Centuries of footmen, and eighteen of horſemen; The ſecond contained twenty Centuries of footmen and two of workmen, which followed after to make

d A. Gel. l. 7. c. 13.

e Sig. de jur. Rom. l. c. 1.

military Engines and Weapons; The third alſo, as likewiſe the fourth, contained twenty Centuries of footmen, but to the fourth were added two other Centuries of Trumpeters, Drummers, and ſuch like, who upon juſt occaſion did *Claſſicum canere*, ſound the Alarm, and upon juſt occaſion did again *receptui canere*, ſound the retreat. The fifth *Claſſis* contained thirty Centuries of footmen: The ſixth or laſt *Claſſis* contained one Century: ſo that in all the 6 *Claſſes* were contained 193. Centuries: where we muſt note, that all the Centuries of footmen did conſiſt, the one half in every *Claſſis* of the younger ſort, who were to make War abroad upon the enemies; the other half of old men, who remained at home for the ſafety of the City. All that hath been hitherto ſpoken of theſe *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The chief Commander of every Century was called *Centurio*; the rod or tip-ſtaff wherewith he did ſtrike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that thoſe *Centuriata comitia* were thoſe wherein the people did give their vocies by Centuries or hundreds. Now the Centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certain *Municipal* States alſo, and ſuch Colonies or other States that could *d Plenum civitatis jus cum jure ſuffragii adipiſci*. *e* Now the cuſtom in old time was, that all theſe Centuries ſhould march in their Armour after their Magiſtrate which Aſſembled them into the *Campus Martius*, there to give their voices. But this cuſtom continued not long: for thereby they did diſarm the City, and give their enemies (if any ſhould aſſail them in time of their Aſſemblies) the greater advantage; for their greater ſecurity therefore they appointed a Flag to be hanged out upon the mount *Janiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the City; and when the Aſſembly was to be diſſolved, then did the watch depart, and the Flag was taken down: neither could

d Roſin. ant. l. 6. c. 10.
e Roſin. ant. Rom. l. 6. c. 16.

could any thing after that be determined; but if they continued their Aſſemblies, then did they proceed to the giving of their voices, in old time thus: Thoſe centuries of the firſt Claſſis being the wealthier, had the Prerogative of ſuffraging firſt, and becauſe this firſt Claſſis contained more Centuries than all the reſt, therefore if they could agree among themſelves, the other Centuries were never asked their voices. This kind of ſuffraging being ſomewhat partial, inaſmuch as the richer and wealthier being placed in the firſt Claſſis, did overſway the elections againſt the poorer ſort of people, thence did the after Ages appoint that that Century ſhould have the Prerogative of ſuffraging firſt, upon whom the lot fell. The other Centuries were called *f centuriæ Jure vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocatæ* did) but the elder and wealthier Centuries did ſuffrage next after the Prerogative Century, accordingly as their place required.

f Roſin. ant. Rom. l. 6. c. 20.

CAP. 5.

De comitiis Tributis.

FOr the better underſtanding of theſe Aſſemblies by Tribes or Wards, it will be needful firſt to learn that this word *Tribus* in this place doth ſignifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that, *g Tributa Comitia erant, cum ex regionibus & locis ſuffragabantur.* It was ſo called either *à tributo dando*, every ſeveral region or quarter paying ſuch a tribute: or *quia primo tres tantum fuerunt*, the whole City being at firſt divided only into three regions, or wards, each national Tribe having his ſeveral region, or local Tribe to dwell in. The firſt national Tribe call *Ramnenſes*, did inhabit the Mount *Palatine*, and the Mount *Cœlius*; and thoſe two hills made the firſt local Tribe. The ſecond national Tribe called *Tatienſes*, did inhabit the *Capitol* and the *Quirinal* Mountain, which two Moun-

g A. Gell. l. 15. c. 27.

Mountains made the second local Tribe. The third national Tribe did inhabit the Plain between the *Capitol* and the *Palatine* Hill, and that Plain was called the third local Tribe. Of these Tribes more is spoken in the first division of the *Roman* people. Only here we must note thus much, that in process of time, after the City was inlarged, and the number of the *Roman* Citizens increased, these local Tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbana*, others *Rustica*. [h] *Urbana ab urbis regionibus; Rustica ab agri partibus erant nuncupata.* And of those two sorts, the *Tribus rustica* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that Tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice, called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

h Sigon. de jure Rom. l. 1. c. 3.

CAP. 6.
De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the *Roman* Petitors or Suitors for bearing Office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, and *Abire magistratu*. The first signifieth, to sue for an Office: the second, to enter in the Office: the third, to depart out of the Office. Again, the difference of these phrases, *Confi-* [i] *cere legitima suffragia, & Explere suffragia.* [i] The first signifieth, to have so many voices as the Law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the Law requireth.

i Rosin. antiq. Rom. l. 20. c. 6.

These persons were termed *Candidati*, *à toga candida*, from the white Gown which they did wear, as it appeareth

eth more at large, where we have spoken *de Romana toga*. That they might the easier procure the good-will of the people, these four things were expected from them, First, *Nomenclatio*, b the saluting of every Citizen by his name, for the better discharge of which, they had a certain follower, which should by way of prompting, tell every Citizen his name as he passed by, and hence this prompter was sometimes called *a Nomenclator*, which word doth properly signifie a common Crier in a Court of Justice, such as call men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latine word to call; sometimes *b Monitor*, sometimes *Fartor ab infarciendo in aures*. 2 *Blanditia*, that is, a friendly compellation by the addition of some complemental name, as well-met friend, brother, father, *&c.* 3. *Assiduitas*, that is, an hot canvasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountiful or liberal largess or dole of Money called *congiarium*, from the measure *Congius*, containing a Gallon; because their *l* dole was at the first made of Oyl or Wine distributed in those measures. Howbeit κατα χυσικὸς any dole, gift or largess in money, or otherwise, is called *Congiarium*. The distributers of this dole were called *m divisores*, *& n sequestres*, although sometimes *sequester* signified a briber or corrupter of a Judge. Likewise their bounty or liberality consisted in providing great Dinners, and exhibiting magnificent Shews unto the people, *&c.* Where we must observe, that as often as this largess is called *Largitio*, it is taken in the worst sense, namely for an unlawful bribing of the suffragers under a pretended largess, *o Benignitas liberalitatem magis significat quam largitionem.*

b Rosin ant. Rom. l. 7. c. 8.

a Cic. orat. pro L. Mur. Mercemur servum qui dictet nomina, &c. Hor. l. Ep. 6.

b Cic. loco supra citato.

l G. Trapez. in Philip. 2.

m Sig. de Jur. l. 2. c. 29.

n Bart. Lat. in orat. pro M. Cœl.

o Cic. orat. pro L. Muræ.

CAP. 6.

De Romanis vestibus.

WE may observe in reading old Authors, that as well the *Romans* as the *Grecians*, had divers distinct

ſtinct habits, or outward veſtiments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garment the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, and *Palliatus* a *Grecian*. *f Togati pro Romanis dicti, ut Palliati pro Græcis.* Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were. *g Toga, à tegendo dicta eſt.* It was made commonly of Wool, but, according to the worth and dignity of the perſon, ſometimes of coarſer, ſometimes of finer Wool; as we may collect by that of *Horace.*

Mihi ſit toga, quæ defendere frigus,
Quamvis craſſa, queat.

We muſt note with *Toxita*, that no Woman of any credit did wear the *Roman* Gown, but inſtead thereof did uſe a garment called *Stola*, from στέλλω, ſignifying *demitto, quod uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd Strumpet, they would term her *i mulierem togatam.* *k* This *Toga* ſometimes was worn open and untuckt; then was it called *Toga aperta*: other times it was tuckt up, and then it was called *Toga præcincta.* This cincture or girding up of the Gown, was according to *l Sigonius*, threefold; *Cinctura laxior*, *aſtrictior*, and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kind of girding was ſuch, that notwithſtanding the tuck, yet the tail trailed on the ground; *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the Gown had been lapped, or tucked up, it ſhould not reach ſo far as the feet. The firſt kind of theſe cinctures did argue a remiſs, ſoft, and effeminate mind: the latter did ſignifie the promptneſs or readineſs of the perſon. *m Unde, Alte præcincti, pro expeditis dicti ſunt.* 3. *Cinctus Gabinus* was a war-like kind of girding, not ſo that the whole Gown ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelf with one skirt thereof

f Sig. de Jud. l. 3. c. 19.

g Mic. Toxit. in orat. Phi. 2.

Mic. Tox. ib.

i Roſin. ant. Rom.

k Sig. de Jud. l. 3. c. 19.

l Sig. ib.

m Sig. ib.

of. *n* This kind of girding was so called from a certain City of *Campania*, called *Gabii*, because upon a time the inhabitants of this City being at sacrifice, were set upon by their enemies, at which time they casting their gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conquest. *o* In memory of which ever after, the *Consul* when he should proclaim war, girded himself in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every Souldier in time of war did wear a different kind of garment from the gown, which they called *Sagum*: we may English it a Souldiers coat. Whence *Tully* useth this phrase, *Ad saga ire*, which *Erasmus* hath parallel'd with this, *Ad cornua se accingere*, to buckle for war. Insomuch that *Cedant saga togæ*, is equivalent to that of the Orators, *Cedant arma togæ*. Touching the difference of the Roman Gowns, I find them distinguished by *p Sigonius* according as followeth; in *Togam puram*, *Candidam*, *Pullam*, *Prætextam*, *Paludamentum*, *Picta*m, *Trabeam*. *Toga pura* was the common ordinary gown worn by new married women, and *Tanaquill prima texuit rectam tunicam, quæ simul cum toga pura tyrones induuntur, novæq; nuptæ*, Plin. l. 8. c. 48. and by private men at mans estate, about the sixteenth year of their age, at which time they were said *Excedere ex ephebis*, that is, to be past striplings. Notwithstanding the sixteenth year was not always strictly without exception observed: *q* for *M. Aurelius* was permitted to wear this gown being but fifteen years old: and *Caligula* did not wear it till the nineteenth year of his age. This kind of gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour: and therefore some have termed it ἁλικρανον, all white, others ἀπορφυρον, void of purple. It was called *virilis*, because it was given to striplings, now growing to mans estate.

n Serv. Æncid. lib. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de jud. l. 3. c. 12.

q Rosin. ant. l. 7. c. 30.

Et toga non tactas vincere jussa nives. Mart.

Whence we uſe to ſay of a ſtripling paſt ſixteen years of age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, [r] becauſe then they did receive ſome beginnings of freedom, as being about that time freed from their Schoolmaſters and Overſeers. This kind of Gown was not made open, but ſewed down to the bottom, and alſo it was made without ſleeves, ſo that if at any time they had occaſion to uſe their arms, they would take up their Gown and caſt it quite behind them, or upon their ſhoulder. But theſe ſtriplings could not for one whole years ſpace, caſt back their Gowns in that manner for their liberty of their arms without the imputation of immodeſty, as appeareth by [t] *Cic.* *Nobis annus erat unus ad cohibendum brachium toga conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office: [u] and hence it is, that *Horace* wiſheth ſuch to hire them a ſervant,

——— *Lævum*
Qui fodiat latus, & cogat trans pondera dextram
Porrigere———

In which place by *Pondera* is underſtood the Roman Gown, as [x] *Sigonius* hath expounded that place. Now for the underſtanding of *Toga Candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above ſpoken of, which is ſometimes called *toga alba*, both of which were white, but differed in the degree of whiteneſs. The *toga alba* had only the natural whiteneſs of the wooll, the *toga candida* had an artificial white dye, whereby the gloſs of the white was made more orient and intenſive. Or elſe as [y] *Sigonius* hath obſerved out of *Iſidor.* *Intendenda albedinis cauſa cretam addiderunt*, that is, they chalked it to increaſe the whiteneſs hereof. And hereunto *Perſius* alludeth:

——— *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam λαμπρὰν*, that is, ſhining or ſplendent. Moreover, whereas the *alba toga* was the ordinary Roman gown which commonly the Roman Citizens

[r] Roſin. ant. Rom. l. 5. c. 32.

Aldus Manu.

[t] Cic. in orat. pro Cœlio.

[u] Sig. de Jud. l. 3. c. 19.

[x] Sigon. ib.

[y] Sig. ib.

Citizens did wear, this *Candida toga* was only worn by those that did *Ambire Magistratum*, sue for a Magistracy or place of office, who during the time of their suite, were called from their Gown, *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young student *eloquentiæ candidatum*. The third sort of Gown, which I termed *Togam pullam*, was a black Gown, and thereof were two several kinds: the one cole-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this gown, they were said *Mutare vestem*, z which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not cole-black, but only foul'd or stain'd, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *sordidati, à sordibus in veste*, from the spots or stains in the gown. Where we must note, that in process of time *Toga pulla* became the ordinary gown which the common people did wear, at which time the ordinary gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suiters for places of office (as in old time it signified) but those which did live in better repute than others; from whence it is, that *a* he whose office was to read the Emperors Letters in the Senate, was called *Candidatus principis*, or *Quæstor candidatus*. It did somewhat resemble the office of the King his Majesties chief Secretary. *Pullati* were those of the commonality or inferiour sort. The fourth sort of gown was the *Toga prætexta*, so called *quia ei purpura prætexta erat*, because it was guarded about with purple silk. This kind of gown at first was used only by the *Roman* Priests, and chief Magistrates: Neither was it lawful for such as did wear that gown to be arraigned, or sentence to be given on them,

z Sig. de Jud. l. 3. c. 19. Cic. orat. pro P. Sext. Suum dolo. rem vestem-tata significabant Romani.

a Feneſt. de Mag. Ro. c. 3.

until that gown was put off. In continuance of time this *toga praetexta* was permitted first to Noble-mens children, afterward to all *Roman* children in general: whereupon *b Togatus à praetexto differt ut privatus à Magistratu, & vir à puero*; and *aetas praetexta* is taken for child-hood, and *praetextati* sometimes for Magistrates, but commonly for young children. The fifth sort of gown was called *Paludamentum*; it was a military garment, which *c* none but the Lord General, or the chief Captains did use to wear. *d Isidorus* saith it was not only garded with purple, but with scarlet and gold lace: whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont wear, called *f Chlamys*; yea now it is called *Chlamys*; we may English it an *Heralds* Coat of Arms. The sixth sort of gown was *Toga picta*, *g* because in it were imbroidered goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-gard (in which respect the *Praetexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a purple dye: it was by some termed *toga palmata*, because in it many Palm-branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such gowns. The last sort of gown was *Trabea*, whereof there were *h* three several kinds; the one woven all of purple, which was consecrated unto the Gods: the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* only did wear. *i* This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

b Fer. Pelitarius in orat. pro A. Cecin.

c Alex. Gen. dier. l. 5. c. 18.
d Sig. de. Jud. lib. 3. cap. 19.
e Sigon. ib.

f Rosin. antiq. lib. 5. c. 31.
g Sig. de jud. lib. 3. c. 19.

h Serv. Æneid. lib. 7.

i Alex. Gen. dier. l. 5. c. 18.

CAP.

CAP. 8.

De Tunica.

THose Coats which were worn under the Gown, were called *Tunica*, and that they were worn under the Gown, appeareth by that adage, *Tunica pallio propior est*, that is, every one for himself first; or according to our English Proverb, Close sitteth my Shirt, but closer sitteth my Skin. *k* This *tunica* was both narrower and shorter than the Gown: at first it was made without sleeves, afterwards with sleeves, and by it, as well as by the gown, were Citizens distinguished. The first sort of Coats was made of white cloth commonly, *l* but pursled over and imbroidered with studs of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the persons wearing this Coat were Senators, called thence *Laticlavii*. The second sort belonged unto the *Romans* Knights, and it differed in making from the first, only that the purple studs or imbroidered works of this, were not so broad as the former: whence the Coat was called *Angusticlavia*, or *Angustus clavus*, and the persons wearing it were called *Angusticlavii*. The third sort belonged unto the popularly, or poorer sort of *Romans*: it was made without any pursled works, being called *Tunica recta*. This Coat was given together with the *virile* gown to striplings past sixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* gown; so was the *tunica clavata* given together with the *toga praetexta*; and the *laticlavia*, otherwise called *tunica palmata*, given with the *toga picta*. The fourth and last sort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and sometimes *palla*, *quia palam gestabatur*. *n* Sigonius saith that this *palla* was a certain gown used by stage-players; howsoever certain it is that not

k Sig. de jud. lib. 3. cap. 20.

l Salmuth. in Pancirol. lib. rerum deperdit. c. de fibul.

Vid. Turneb. advers. l. 1. c. 2.

m Rosin. ant. lib. 5. cap. 35.

n Sig. de jud. li. 3. c. 19.

not only women, but men also and children did wear this kind of garment. Besides the *Roman* gown and coat, there remain other parts of their apparel to be spoken of: such are these which follow: *Lacerna*, which some do English a Cloke, but *o Festus* would have it to be a little kind of hood, which men should wear to defend themselves from the rain and weather: it was made that either side might be worn outward: and at first it was worn only in war, so that *lacernati* stood in opposition with *togati*. *p Isidorus togatos pro urbanis, lacernatos pro militibus usurpatos scribit.* Afterward, as we may conjecture, it was made longer, in manner of a cloke, for it was divers times worn upon their coats instead of gowns. Another kind of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging cloak. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a Coif, or such like: though this kind of attire was more properly called *Calantica*: other times it signified a girdle, which more properly was called *Zona*: this *Zona* chiefly signified a Souldiers Belt, or a marriage girdle. The Souldiers Belt was lined within in the inside, where when they went to War they did put their money: whence *Horace* saith of a man that had lost his money, *Zonam perdidit*: and ζώσασθαι, to be girt, signifieth Ἔνδυναι τὰ ὅπλα, *Arma induere*, *Cæl. Rhod. l.* 22. 19. haply because that part of the body which was girt, was consecrated to *Mars*, as the forehead was to every mans particular *Genius*, the arms to *Juno*, the breast to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab Alex. l.* 2. *c.* 19. Young maids when they were married were wont to have a marriage girdle tied about their middle, which their husbands at the first night of their marraige should untie: whence *zonam solvere*, hath been translated to deflower a Virgin. This marriage-girdle in former times was called *Cestus*, from whence cometh the Latine word *Incestus*, and the English word Incest: which in truth

o Sig. ibid.

p Sig. ibid.

truth ſignifyeth all kind of pollution committed, by undoing, or untying this Girdle, called *Ceſtus*: But now in a more ſtrict acceptation it ſignifyeth only that kind of naughtineſs which is committed between two of near kin; *q* and that other folly which is committed with ſtrangers wife, is now properly called *Adulterium*; and that which is committed with a maid or widow, *ſtuprum*. The laſt thing touching their apparel is their ſhoes. *r Calceamentorum genera duo fuerunt, calceus, & ſolea.* For the ſoal of the ſhoe, called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottom of the foot with leathern ſtraps or buckles, and ſo worn inſtead of ſhoes. The divers kinds of theſe ſhoes did diſtinguiſh the *Roman* people alſo. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncinati*, *Perones*, *Cothurni*, *Socci*, all theſe ſorts of ſhoes were made half way up the leg, as the Turkiſh ſhoes are, according to *Joſephus Scaliger*; and they were either laced cloſe to the leg, as many of our boots are now adays; or claſped with taches, or haſps. The firſt ſort called *Mullei*, *ſ* from the fiſh *Mullus*, being like unto it in colour, were alſo called from their claſp *t calcei lunati*, becauſe the claſps were made in form of a half-Moon, which half-mooned claſp reſembling a *Roman* C, ſignified a hundred, *u* intimating thereby that the number of the Senators (they only being permitted to wear that kind of ſhoe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp, to put them in mind that the honour to which they had attained, was mutable and variable as the Moon. For they think that theſe *Lunati calcei* were not received as a token of Nobility only at *Rome*, but in other places, to which purpoſe they interpret that of the Prophet, *Eſai. cap.* 3. *In die illo auferet Dominus ornamentum calceorum & lunulas.* *Cæl. Rhod. lect. ant. l.* 20. *c.* 28. *Uncinati calcei*, were thoſe, which the Souldiers were wont to wear. I take them to be the ſame with thoſe

q Cæl. in orat. pro Milonc.

r Roſin. ant. Rom. l. 5. c. 36.

ſ Salmut. in Pancir. lib. rer. deperd. c. de Fibula.

t Appoſitam nigræ lunam ſubtexit alutæ. Juv.

u Salmut. in Pancirol. lib. rerum deper. c. de Fibul.

those which they called *Caligæ*, from which kind of shoes *C. Cæsar Caligula* had his name, because he was born in the Army, *Quia natus in exercitu fuerat, cognomentum calceamenti militaris*, i. e. *Caligula fortitus est. Aurel. Vict. Epit. de vita Imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shoes, saith, There were the *Mullæi*, called from their clasps, *Lunati*, and these *Perones* made without such half-mooned clasps, called also *Calcei puri, quoniam ex puro corio facti*, and these *Perones*, or *puros calceos* all the other Romans did wear, *x* with this note of distinction, that the Magistrates shoes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis Ludis*.

x Salmuth. in Pancirol. lib. rer. deperd. c. de fibula.

LIB

LIB. III. SECT. II.

Of the Roman *Magiſtrates.*

CAP. I.
De Magiſtratibus Romanis.

WE being to treat of the *Roman* Magiſtrates, will firſt ſee what the definition of a Magiſtrate is. A Magiſtrate is he [o] who receiveth by publick authority, the charge and overſight of humane affairs belonging to the Common wealth. Theſe *Roman* Magiſtrates were either to be choſen, only out of the better ſort of *Romans*, called the *Patricii*, or elſe only out of the Commonalty. [p] The firſt were thence called *Magiſtratus patricii*, the ſecond *Magiſtratus plebeii*. The *Patricii* had power to hinder the Aſſemblies of the people; namely, their *Comitia*, by obſerving ſigns and tokens from the heavens: howbeit ſome of them had greater power, others leſs, inſomuch that ſome were called *Majores Magiſtratus*, *quoniam habebant majora auſpicia, id eſt,* [q] *magis rata*. Others were called *minores magiſtratus*, *quoniam habebant minora auſpicia*. Of theſe in their order.

[o] Sig. de jur. Rom. l. 1. c. 20.

[p] Sig. de jure Prov. l. 3. c. 1.

[q] Feneſt. de Magiſt. Rom. c. 1.

CAP. 2.
De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia* did so incense the people, that they did not only for the present exile him, but decreed that their City should never after that be governed by a King. This King had absolute rule and government over the City. For the safety of his person he had three hundred chosen young men always to be attendant about him, much like unto our kings Majesties Guard here in *England*, or rather his *Pensioners*. They were called [r] *Celeres à celeritate*, from their readiness in assistance: sometimes they were called *Trossuli*, [s] because they alone without the help of any foot-men did take a certain City in *Etruria* called *Trossulum*. Othertimes they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their several overseer called *Centurio*: and over them all there was one general overseer, and chief commander whom they called *Praefectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers, from ῥάβδος a Rod, and ἔχω, to have: though sometimes ῥάβδοῦχοι, do signifie the same as ῥαψῳδοὶ, the Rehearsers of *Homers* verses or in general of any other *Poets*: παρὰ τὸ ῥάπτειν ᾠδάς from patching together other mens Poems. For the Reciters of *Homers* verses were wont to hold a Rod or Wand in their hand during the time of Rehearsal. *Cæl. Rhod. l. c.* 19. They did somewhat resemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundles of birchen-rods, with an axe wrapped up in the midst;

[r] Plutarch. in Romulo.
[s] Plin. l. 33. c. 2.

midſt of them: the rods in *Latine* were called *Faſces*, the axe *Securis*. [t] The reaſon why they carried both axes and rods was to intimate the different puniſhment that belonged to notorious and petty malefactors. The reaſon why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the magiſtrates might be ſomewhat allayed, whiles they were unbinding. Hence becauſe theſe *Faſces virgarum & ſecurium*, did betoken honour and chiefdom in place and authority, by the figure *ſynecdoche*, this word hath been uſed to ſignifie honour and dignity, as *Faſcibus ſuis abrogatis*, he being diſcharged of his magiſtracy or dignity. And *Faſces ſubmittere* to give place, or yield unto. *Valerius Publicola* gave the occaſion of the Proverb. He to inſinuate himſelf into the hearts of the people, is ſaid, *Submittere faſces populo quoties prodiret in concionem.* Some interpret it, as if he were wont to command the Serjeants quite to depart out of the Aſſembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus. αὐτὰς τε τὰς ῥάβδους εἰς ἐκκλησίαν πομπὸν, ὑφῆκε τῷ δήμῳ καὶ κατέκλινε, *Faſces ipſos in concionem progreſſus populo ſubmiſit inclinavitque.* So that the phraſe ſignifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cœl. Rhodig. l.* 12. *c.* 7.

[t] Joac. Camerarius in orat. pro Flacco. immedicabila vulnus Enſe recidendum, &c.

CAP. 9.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii.

TOuching the election of the *Senators*, the number of them, and the diſtinction of them into *Senatores majorum* and *Senatores minorum gentium*, ſufficient hath been delivered in the ſecond diviſion of the *Roman* people; as likewiſe in the third diviſion hath been ſhewn the habit or gown by which the *Senators* were diſtinguiſhed from the *Roman* gentlemen. Here therefore it ſhall be ſufficient for us to underſtand, that every ſolemn meet-

ing, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other than such, as had been either *Consul* or *Censor*) was called *Princeps Senatus*, and his opinion was alwaies first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The decree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters, B. F. That is *Bonum factum*. *Sueton. Jul. Cæs. c.* 80. and it had the same use as, *In nomine Dei* with us. The place where this consistory was had, they called *Senaculum*. None was [a] ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride to the Senate-house in a Curule-chair, namely when they had born such office, which gave them right to that chair; others which had not born such office, went on foot: [x] whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus consulta*, sometimes by departing down their benches, and dividing themselves into sides. Those which did approve that which was proposed, sided with the party who did *Referre ad senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signifie by holding up, or beckoning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, tearming that act to be decreed [y] *per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices,

[a] Mart. Phileticus in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileticus ibid. I. A. Gel. noct. Attic. l. 3. c. 18.

[y] Hubert. in Cic. l. 1. ep. fam. 29.

ees, and that which was thus determined was ſaid to be decreed, *per ſingulorum ſententias exquiſitas*, that is, by voices. Here we may obſerve that thoſe, who were favourably heard in *Senate*, *His ſenatus dare dicebatur*; and z likewiſe they were ſaid, *Stare in Senatu*: as on the contrary they were ſaid *jacere*, whom the *Senate* neglected or rather condemned. a *Cum mihi ſtanti jacens minaretur*, ſaith b *Tully*. If any Senator were abſent without a lawful excuſe, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ranſome, then did the common Treaſurer *Cadere vel concidere pignora*, that is, ſtrain or ſeize upon the pledges, making common ſale thereof, in which ſenſe thoſe two phraſes are uſed, namely, *capere pignora*, *& auferre pignora*, that is, to ſtrain or ſeize upon a mans goods.

z Aſcenſius in Cic. l. 1. epiſt. fam. 4.
a Cic. orat. de aruſp. reſpon.
b Roſin. ant. l. 7. c. 7.

CAP. 4.
De Conſulibus.

After the expulſion of *Tarquinius Sup.* the laſt *Roman* King, all the Citizens in *Rome* Aſſembled, and concluded that the government of the City, which before was in the hand of one alone governour, called their King, ſhould now be divided between two: c who at firſt (before there was any ſubordinate office as a *Pretorſhip*) the *Romans* called *Prætores*, *quod prærirent populo*. Not long after they were called *Judices*, *à judicando*. In proceſs of time they were known by no other name than *Conſules*, *à Conſulendo populo*. d No Citizen was ordinarily created *Conſul* before the forty third year of his age. Neither might any be choſen without ſpecial diſpenſation, either in their abſence out of *Rome*, e or in time of their triumph; which was the reaſon that *Julius Cæſar* was glad to forgo his triumph at that time when he was *Conſul* with *Bibulus*. The ſigns or tokens of this *Conſular* dignity were the twelve *Lictors* carrying their bundles of rods and axes f the firſt month before one *Conſul*,

c Roſin ant. Rom. l. 7. c. 9.
d Cic. orat. Phil. 5.
e Suet. Jul. Cæſ. c. 18.
f Alex. Gen. dier. l. 3. c. 3.

Conſul, and the ſecond before the other, as formerly they had done before the Kings. * Now he that had the rods carried before him in the firſt month, either he had more children than the other, for the *lex Julia* gave precedency to him who had moſt children, or he was elder than the other, or in time of the election he was pronounced before the other, for which reſpects he was called *Conſul major*, and *Conſul prior*. g The reaſon why each Conſul had not twelve *Lictors* always, was becauſe the tyranny of the Conſul might then ſeem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Eſtate called *Sella eburnea*, that is, an Ivory chair, ſo called from the matter whereof it was made, and *h* becauſe this chair was commonly carried about in a certain Coach or Chariot, wherein the Conſul did ride, hence from *Currus* which ſignifieth a Chariot, it is alſo called *Sella Curulis*; where *i* note that the word *Curulis* is ſometimes uſed ſubſtantively, and then it ſignifyeth ſome chief Magiſtarcy or office among the *Romans*. The gown by which they were diſtinguiſhed from other Magiſtrates or private men, was a certain purple gown which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the obſervation to note, that the *Romans* did date their Deeds and Charters in old time, by nameing the year wherein their City was firſt founded; as to ſay, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, *&c.* But in proceſs of time their manner of dating, was by ſubſcribing the names of their preſent Conſuls; as to ſay, ſuch a thing was determined, *L Valerio, M. Horatio Conſulibus*, ſuch and ſuch being Conſuls: whence *Suetonius* ſpeaking of *Julius Cæſar*, ſaith, he was appointed to be *Flamen Dialis, ſequentibus Conſulibus*, that is, the next year following. Yea, this was ſo common a date, that to know the age of their wines, they ſigned their veſſels with the names of their Conſuls, adding withall, that

* Cœl. Rho. l. 12. c. 7.

g Feneſt. de Mag. Rom.

h A. Gel. l. 3. c. 18.

i Stadius in Flor. l. 1. c. 5.

that they might know the goodneſs of their wine, the name of the countrey whence it came, according to that of *Juven. Sat.* 5.

——*Cujus patriam, titulumque ſenectus*
Deleuit multa veteris fuligine teſte. Turn. adv. l. 1. *c.* 1.

Thoſe alone who had born the office of a Conſul, not every one that was capable thereof, were ſaid to be *Viri conſulares.* [k] At the firſt thoſe who were created Conſuls remained in their office the ſpace of a whole year, being *deſignati ad conſulatum* upon the twenty fourth of *Octob.* [l] *At conſulatum non inierant ante Calendas Jan.* that is, the firſt of *January.* The reaſon of this chaſme, or *interim* between their deſignation unto their office, and their entry into it, was (as we may probably conjecture) that the Competitors might have ſome time to inquire *de Ambitu,* that is whether there was no indirect and unlawful means uſed in their canvaſing. In proceſs of time, either by voluntary reſignation, or depoſition, or death, many Conſuls have been choſen in the ſame year, and they were called [m] *Non ordinarii, & ſuffecti Conſules.* At ſuch times all their deeds were dated by the names of the two firſt Conſuls which began the year: whence thoſe two firſt, and likewiſe all thoſe that continued in their office the whole year, were called [n] *Conſules Honorarii,* and *Conſules Ordinarii.*

[k] Triſtinus in orat. Cic. pro Cælio.

[l] P. Ramus in orat. Cat. 1.

[m] F. Sylv. in Cic. orat. pro Mur.

[n] Roſin. ant. Rom. l. 7. c. 9.

CAP. 5.
De Cenſoribus.

THe Conſuls finding themſelves incumbred with ſo many buſineſſes of different nature, did by conſent of the Senate chooſe two peculiar Officers, called [o] *Cenſores à cenſendo,* becauſe they ceſſed and valued every mans eſtate, regiſtring their names, and placing them in a fit century. For it did concern the *Romans* to know the number, and likewiſe the wealth of the people, to the end they might be informed of their own ſtrength, and

[o] Feneſt. de Mag. Rom. c. 17.

and ſo ſhape their courſe accordingly, either in undertaking wars, tranſplanting Colonies, or in making proviſion of victuals in time of peace. A ſecond and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phraſe, being called *Virgula Cenſoria*. If any one had plaid the ill husband, and neglected his Farm, or left his vine untrimmed, the Cenſors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depoſe Senators and pull down men from a more honourable Tribe, to a leſs honourable. *Diminutio maxima* was the loſs of ones Tribe, City and Freedom. Theſe Cenſors were reputed of the beſt rank of Magiſtrates in *Rome*; they remained in their office an whole five years ſpace ordinarily; I ſay ordinarily, becauſe [r] through the abuſe of their place, the office had been made ſometimes annual. [ſ] That five years ſpace the *Romans* did call *Luſtrum*, becauſe they did once in every five years revolution *Luſtrare exercitum Romanum*, by ſacrifice purge the *Roman* Army. Hence we ſay *duo luſtra*, ten years, *tria luſtra*, 15 years, *&c.* The performance of this *Luſtration* belonged alſo unto the Cenſors: for after the Cenſors had performed the one part of their office, in regiſtring the juſt valuation of every Citizens eſtate, [t] they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end ſacrificed them to *Mars*: and thus to purge an Army, is, *condere luſtrum*; though ſometimes *condere luſtrum* doth ſignifie, to muſter an army. Theſe ſacrifices, as likewiſe all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull ſacrificed, were termed ſometimes [u] *Suo-vetauralia*, ſometimes *Solitauralia*, ſometimes [x] *Taurilia*. Moreover it did belong unto theſe Cenſors to farm out the Tributes, Impoſts, Tollage, *&c.* [y] At the five years end, the acts of both their Cenſors were regiſtred upon books of record, which records were laid up in a certain religious houſe dedicated to

r Feneſt. de Rom. Mag. c. 7.

ſ Pomp. Læt. de Rom. Magiſt. c. de Cenſor.

t Pancirol. l. rerum deper. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Læt. de mag. Rom. c. de Cenſor.

y Pancirol. l. rerum deperdit. c. de cibi capiendi modo.

to the *Nymphs*. Whence z *Cicero* speaking of *Clodius*, saith, *Qui ædem Nympharum incendit, ut memoriam publicam incensis tabulis publicis impressam aboleret.* z Cic. pro Milone.

CAP. 6.

De Prætoribus.

THe Consuls by reason of their many troubles in War, having no time to administer justice unto the *Roman* people, did for the better help therein, create two new Officers for the executing of justice, the one to examine and judge of matters within the City, between Citizen and Citizen; the other to decide Controversies between forreigners. The first they a called *Prætorem urbanum*, and *Prætorem majorem*; the other *Prætorem peregrinum, & Prætorem minorem*; we may English them Lord Chief-Justice. Where we must note, that at the first there was only the *Prætor urbanus*, until the cases and suits in law became so many, that one was not sufficient to hear them all, b yea at last the number of the *Prætors* came to 16. namely, when those two were added for the providing of corn and grain; whence they were called *Prætores Cereales*, c nay there were at last 18. *Prætors*, there being two others added to judge of controversies touching feoffments of trust, called thence *Prætores fidei commissarii*. d *Causarum duo genera sunt, alia privatæ, alia publicæ; has criminosas, illas civiles appellant.* In those cases which were private, that is e touching equity and uprightness of any act, or the restitution of any money or goods unlawfully detained from the right owner, it belonged principally unto the f two first *Prætors* to judge; g but under them unto the *Centum-viri*, who oftentimes are called by *Tully*, *Recuperatores*, and *Judices hastæ*; the Court, *Hastæ centum-viralis*, because one of the marks and special ensigns was a spear erected up in the place the Court was kept. Those cases which were publick or criminal, as Treason, Murther, Buying of voices in the

a Pighius æquip. comp.

b Alex. Gen. dier. l. 2. c. 15.

c Fenest. de Mag. Rom. c. 19.

d F. Sylv. in orat. pro Mur.

e I. Saxon. in Cic. orat. pro S. Rosc.

f Rosin. ant. l. 7. c. 11.

g Saxonius ib.

canvasing of Offices, &c. were called also *causæ capitales* and *capitis dimicatio*, that is, *h* such cases wherein if the party accused had been found guilty, he was *capite damnatus*: by which phrase we must not understand always *Ultimum supplicium, sed aliquando exilium, quo scilicet caput*, that is, *Civis eximitur à civitate*. *i* These cases at the first were heard by the Kings and Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *quæsitores parricidii*. In continuance of time the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire year (whereas the others had their authority no longer than they sate in Judgement) were thence for distinction sake called *Prætores Quæsitores*, and the cases were termed *Quæstiones perpetuæ*: *k* because in these cases there was one set-form of giving judgment perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every year change the form of giving judgement by hanging up new Edicts. *l* Here we must note, that these *Quæsitores parricidarum*, otherwise called *Prætores Quæsitores*, had not the examination of all publick cases, but sometimes upon extraordinary occasions either the Consuls, the Senate or the people themselves would give judgment. Now as those former *Prætors* had a spear erected up, whereby their Court for private causes was known; so had these *Quæsitores* a sword hanged out in token of their Court. *m Prætorum insignia duo fuere, hasta & gladius, illa ad jurisdictionem, hic ad quæstionem significandum.* The officers which did attend these *Prætors* were *Scribæ*, i. e. certain Notaries much resembling the Clerks of our Assises, their office being to write according as the *Prætors* or chief Justices had bid them, taking their name *à scribendo*. The second sort were called *Accensi ab acciendo*, from summoning, because they were to summon men to their appearance. They much resembled our Bayliffs errant. The third sort were *Lictores*;

h F. Sylv. in orar. pro Mur.

i Rosin. ant. l. 9. c. 18.

k Rosin. ant. l. 7. c. 11.

l Rosin. ant. l. 6. c. 18.

m Sig. de Jud. l. 1. c. 7.

tores; of which before. *n* The authority of the Urbane *Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Jus honorarium*. *o* Others are of opinion, that only the *Prætors* edict was that *Jus honorarium*, *p* the *Prætor Urbanus* being wont at the entrance into his office, to collect as set form of administration of Justice out of the former Laws, and several Edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum ab edicendo*, i. e. *q imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted, doth translate *Consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the virtue thereof was perpetual, (for that expired together with the *Prætors* office, and therefore *r Tully* calleth it *Legem annuam*) but in respect of other Edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of Edicts *s Tully* calleth it *Peculiaria & nova edicta*. Afterward, *t Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of those three words, *Do*, *Dico*, *& Addico*, i. e. *u Dat actionem*, *Dicit jus*, *Addicit tam res quam homines*. That is, he is said *Dare*, when he granteth out an action or writ against a man; *Dicere*, when he passeth judgment on him; and *Addicere*, when he in

n Feneſt. de Rom. Mag. cap. 19.

o P. Pellat. in Cic. orat. pro A. Cœcinna.

p Pigh. Æq. pet. com.

q Pellit. in Cic. orat. pro A. Cœcinna.

r Cic. in Ver.

s Cic. in Ver. 5.

t Sig. de Jud. lib. 1. c. 6.

u I. Carmerar. in Cic. orat. pro Flacco.

the Court doth see and allow the delivery of the thing or the person on which judgement is passed. The Form of Addiction was thus: After judgment had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hunc ego hominem, sive hanc rem, ex jure Quiritium meam esse dico.* Then immediately did the L. chief Justice *Addicere*, that is, approve the challenge, and grant a present possession. *Ant. in Fast. l.* 1. For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Augurale*, sometime *Forense*, sometimes a term of Art belonging unto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods: the opposite hereunto is *Abdicere*. Sometimes this Verb *Addico* is a term of Law, signifying as *x* much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Prætor* unto the right owner *bona addicta*, but those debtors also which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *servi addicti*. Yea moreover, because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signifie to sell, as *Addicere sanguinem alicujus*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores à præeundo, quoniam jure præibant.* And *y* those alone were properly termed *viri Prætorii* which had born this office, not they which were capable thereof: In the same sense we say *Viri Censorii*, and *Viri Ædilitii*, &c.

x M. Toxita in orat. pro Pub. Quint.

y Fr. Maturantius in Philip. 1.

CAP.

CAP. 7.

De Imperatoribus, Cæſaribus, ſive Auguſtis.

WHen *C. Julius Cæſar* had overcome *Pompey* his Sons in *Spain*, at his return to *Rome*, the Senate welcomed him with new invented Titles of ſingular honour, ſtyling him *Pater Patria*, *Conſul in decennium*, *Dictator in perpetuum*, *Sacroſanctus*, and *Imperator*; all which titles were afterward conferred upon *Octavius Cæſar*; and all the Emperors ſucceeding him deſired to be called *Imperatores & Cæſares* from him. Where we muſt underſtand, that this name *Imperator* was not altogether unknown before; for by that name the *Roman* Souldiers were wont (even at that time) to ſalute their Lord General after ſome ſpecial conqueſt. 2. Theſe *Roman* Emperors were afterward called alſo *Auguſti* from *Octavius Cæſar*, whom when the Senate ſtudied to honour with ſome noble Title, ſome were of the mind that he ſhould be called *Romulus*, becauſe he was in a manner a ſecond founder of the City: but it was at length decreed by the advice of *Munatius Plancus*, that he ſhould be ſtyled by the name of *Auguſtus*, which we may Engliſh *Soveraign*: And they counted this name of more reverence and Majeſty than that former name of *Romulus*, becauſe all conſecrated and hallowed places were called *Loca Auguſta*. The authority of theſe Emperors was very great, even as great as of the Kings in former times.

2 Ser. Æn. l. 6.

CAP. 8.

De Principibus juventutis, Cæſaribus, & nobiliſſimis Cæſaribus.

A Cuſtome *a* was received among the *Roman* Emperors in their life-time, to nominate him whom they would have to ſucceed them in their Empire; and him they called *Princeps juventutis*, *Cæſar*, & *Nobiliſſimus Cæſar*.

a Roſin. ant. l. 7. c. 13.

Cæsar. The like Custom was practised by *Charles* the fifth Emperor of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperor, that upon the death, resignation, or deposition of the then being Emperor, he immediately should succeed.

CAP. 9

De Præfecto Urbis.

Romulus for the better Government of the City appointed a certain Officer called *Urbis Præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, *&c.* Afterward in the time of the *Roman* Emperors, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centesimum lapidem*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, or Lieutenantship, a different Office from the former, but I should rather think them to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find *Festella*, *Alexand. Neopol.* and *c Sigonius*.

b Despauterius in sua syntax.

c Sig. de jur. Rom. l. 1. c. 20.

CAP.

CAP. 10.

De Decemviris, & legibus ſcribendis.

FOr the better adminiſtration of Juſtice, the *d Romans* appointed three men, namely, *e Sp. Poſthumius, Ser. Sulpitius, A. Manlius,* to go to *Athens,* and other Grecian Cities there to peruſe the Grecian Laws: to the intent that at their return, both a ſupply might be made of thoſe Laws that were wanting in *Rome,* and the other that were faulty might thereby be rectifyed and amended. At the return of thoſe three men, the Conſuls were depoſed, and both their Authority and Enſigns given unto *f* ten men newly elected for the Government of the State, and were thence called *Decemviri.* The firſt elected into this *Decemvirate,* were *Ap. Claudius, T. Genutius, P. Sextius, Sp. Veturius, C. Julius, A. Manlius, Ser. Sulpitius, P. Curiatius, T. Romul. Sp. Poſthumius:* all of them ſuch as had born the Office of a Conſul. The Laws which they brought from *Athens* were written at firſt in ten Tables of Braſs: afterwards two other Tables were added, at which times thoſe laws began to be known and diſtinguiſhed from others by the name of *Leges* 12. *Tabularum.* And according to thoſe laws Juſtice ever after was adminiſtred unto the *Roman* people, at firſt by theſe ten men appointed thereunto, whoſe authority was as large even as the Kings and Conſuls in old time, only it was annual. One of them only had the Enſigns of honour carried before him, one alone had the authority of convocating the Senate, confirming thoſe Decrees, and the diſcharge of all State-buſineſſes; *g* the other did little differ from private men in their habit, only when the firſt had ruled a ſet time, the others ſucceeded by turns. This kind of Government did not continue long in *Rome*; for in the third year all their power was abrogated, becauſe of their Tyranny and Oppreſſion uſed by them towards the *Roman* people.

d Feneſt. de Mag. Rom. c. 14.

e Roſin. ant. l. 7. c. 9.

f Lip. Reg. l. 8.

g Roſin. ant. Rom. l. 7. c. 19.

CAP.

CAP. 11.

De Interregia poteſtate.

f Dion. Halic. l. 2.

AFter the death of *Romulus*, *f* the Senators divided themſelves into ſeveral Companies, called *Decuriæ*, committing the Government of the Kingdom to that *Decury*, that is, to thoſe ten men, upon whom the lot fell, calling them the *Interreges*. Where we muſt know that theſe ten did not rule all together, but each man ruled for the ſpace of five days, whence *g* *Roſinus* calleth his Magiſtracy, *Magiſtratum Quinqueduanum*. After that five days Government had paſſed through the firſt, then did they go to lots to have a ſecond *Decury* choſen, and ſo a third. *&c.* This office of an *Interrex* remained even in the Conſuls time, ſo that if by ſome extraordinary occaſion the Conſuls could not be created, *h* then they choſe one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

g Roſin. ant. l. 6. c. 16.

h Alex. Gen. dier. l. 5. c. 6.

CAP. 12.

De Dictatore.

WHenſoever the *Romans* found themſelves encumbred with dangerous Wars, or any other eminent dangers, they preſently choſe a *Dictator*, to whom alone was committed the Authority and Rule of the whole Kingdom, differing from a King only in reſpect of his name, and the continuance of his Office. Touching his name he was ſo called, *quoniam dictis ejus parebat populus*. His Office continued but ſix months, and at the expiration thereof, if need required, he was choſen again for another ſix months. He was alſo called *i* *Populi Magiſter*, inaſmuch as none could make their appeal from him unto the people. Aſſoon as himſelf was eſtabliſhed in his office, he choſe a ſubordinate Officer,

i Pighius in Tyran.

ficer whom he called [k] *Equitum Magiſter*: his authority much reſembled his, whom they called *Urbis Præfectum*: for as the *Præfectus Urbis* in the abſence of the King, ſo this *Magiſter equitum* in abſence of the *Dictator* had full and uncontrolable authority of doing what he would.

[k] Stadius in Flor. l. 1. c. 11.

CAP. 13.
De Tribunis militum.

THeſe [l] military *Tribunes* were of two ſorts. The one had all power and authority, which belonged unto the *Conſuls*: and thence were called *Tribuni militum conſulari poteſtate*. The occaſion of them was this: The protectors of the commons called *Tribuni plebis*, did earneſtly labour that the commonalty might be made as capable of the conſular dignity as the Nobility: This was followed ſo hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Conſuls*; yet in effect they would grant it them. Namely the *Conſuls* ſhould be depoſed, and in their ſtead other Magiſtrates ſhould be choſen; part out of the Nobility, part out of the commonalty, who though they were not called *Conſuls*, but *Tribuni*, yet were they of *Conſular* authority: by which they were diſtinguiſhed from the other ſort of Military *Tribunes*, who had power and authority only in matters military, and were known by the name of *Tribuni militum* without any addition. [n] Sometimes there was one of theſe three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate unto us any diſtinction of office or place, but to ſignifie their manner of election. For if they were choſen by the *Conſuls*, then were they called *Tribuni Rutuli*, or *Rufuli*, becauſe they had their authority confirmed unto them by vertue of an act or Law preferred by *Rutilius Rufus*, when he was *Conſul*. If they were choſen by the Souldiers themſelves in their Camp, then were they called *Tribuni ſuffecti*, that is, *Tribunes* ſubſtituted or put

[l] Roſin. 2. l. 7. c. 24.

[n] Alex. Gen. dier. l. 6. c. 18.

in the place of another. Whence we may conjecture, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by ſome violent or unnatural death. The laſt ſort called *Comitiati*, were ſo called becauſe they were choſen by the *Roman* Aſſemblies, called in Latine *Comitia*. They were termed *Tribuni*, becauſe at the firſt inſtitution of them (whether we underſtand the Conſular *Tribunes*, or this latter ſort) there were but three of each. In proceſs of time notwithſtanding I find the number not only of thoſe *Conſular Tribunes*, [o] but of thoſe other alſo to have been encreaſed to ſix, accordingly as the thouſands in a legion were multiplied. Theſe latter ſort of *Tribunes*, in reſpect of their Military Diſcipline, which was to ſee the Souldiers being faulty to be puniſhed, we may Engliſh *Knights Martial*: In reſpect that their authority was over Foot-men only, we may Engliſh them *Serjeants Major*: only this difference there was, to every thouſand of foot-men in any Legion, there were as many Military *Tribunes* under their chief Commander called *Imperator*. But in our Engliſh Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never ſo many thouſands.

[o] Roſin. ant. l. 7. c. 20.

CAP. 14.

De Triumviris Reipub. conſtituenda.

THis tyranny of the *Triumviratus* began by a conſpiration between *Auguſtus Caſar*, *Antonius*, and *Lepidus*. For theſe three under the pretence of revenging *Julius Caſar* his death, obtained chief power and authority for the ſpace of five years throughout *Rome*, [p] pretending that they would ſettle the Commonwealth, which at that time by reaſon of *Julius Caſars* death was much out of order. Thoſe five years being expired, they refuſed to reſign their authority, exerciſing exceſſive cruelty.

[p] Feneſt. de mag. Rom. c. 21.

ty towards all the *Romans* of what degree ſoever. ¶ This kind of government remained but ten years, neither ever were there any other than thoſe three above named. They had power to enact any New Law, to reverſe any former Act, without the conſent of the *Senate*, or *Commons*. They might proſcribe and baniſh any *Roman* at their pleaſure, and as often as we read *de Triumviratu* ſimply without any adjunction, or *de Triumviratu Senatus legendi*, we are to underſtand it of this, though ſome upon unſure grounds do diſjoyn them.

q Suet. octa. Aug. c. 27.

CAP. 15.

De Quæſtoribus Ærarii.

THis Office of the *Quæſtors* ſeemeth not unlike to a publick Treaſurer, which collecteth the ſubſidies, cuſtoms, mony, yearly revenues and all other payments, belonging to any State or Corporation. And hence r *quoniam publicæ pecuniæ quærendæ præpoſiti erant*, they took their name *Quæſtores*. Sometimes they are called *Quæſtores Urbani*, to diſtinguiſh them from the Provincial *Quæſtors*, which bare office in the Roman Provinces: ſometimes they are called *Quæſtores ærarii*, to diſtinguiſh them from thoſe that were called *Quæſtores parricidii*, or *rerum capitalium*, of which you may ſee more in the tract *de Prætoribus*. ſ Laſtly, they were called *Quæſtores ærarii*, to diſtinguiſh them from the *Tribuni ærarii*, i. e. thoſe Martial Treaſurers, or Clerks of the Band which did receive the Souldiers pay from theſe City-treaſurers, and ſo pay it unto the Souldiers. The office of the City treaſurers (then being at firſt but two) was to receive all the City accounts; to diſburſe at all occaſions of publique expences; to take an oath of him that the Souldiers had ſaluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies ſlain, as alſo

r Feneſt. de Mag. Rom. c. 3.

ſ Sig. de jure Rom. l. 2. c. 8.

of the number of Citizens loſt; otherwiſe he might barr the Emperor of his triumph. Moreover whatſoever ſpoils were taken in War, they were delivered up unto theſe *City-quæſtors*, and they ſelling them, laid up the money in the great Treaſure-houſe called *Ædes Saturni*.

CAP. 16.
De Tribunis Plebis.

THe [t] *Roman* commonalty finding themſelves oppreſſed by the wealthier ſort, departed unto the *Aventine* mount, threatning the *Roman* Nobility, that they would forſake the City, and never again adventure themſelves in war for the defence thereof, unleſs they did find ſome releaſe and eaſement, from thoſe exceſſive payments of uſe and intereſt unto their Creditours: yea, beſides the remiſſion of their preſent debts, before they would return unto the City again, they would have certain Magiſtrates choſen, which ſhould be [x] *Sacroſancti*, that is, ſuch as might not be hurt or violently uſed, not ſo much as in words: and if any had violated that law whereby they were made *Sacroſancti*, then was he accounted *homo ſacer*; that is, an excommunicate perſon, or ſuch an one whoſe ſoul ſhould be vowed unto ſome God; inſomuch that if any after had killed him, he ſhould not be liable unto judgement: [x] *quoniam illius anima diis devota amplius humani commercii non ſit.* To thoſe [y] Magiſtrates the protection of the Commons was committed, who becauſe they were at firſt choſen out of the *Military Tribunes*, therefore did they always retain the name of *Tribunes*, being ſo called, that they might be diſtinguiſhed from the others, *Tribuni plebis*, Protectors of the Commons. At the firſt inſtitution of them they were in number but two, as [z] ſome have thought: [a] Others ſay five, afterward (as it is yielded by all Writers) they increaſed unto ten. Their authority at firſt conſiſted chiefly in this, that they had power to hinder any proceedings

t Roſin. Epit. rer. in Rom.

x Roſin. ant. l. 7. c. 25.

x Alex. Gen. dier. l. 6. c. 4.

y Roſin. ant. l. 7. c. 23.

z Pighius in 300 Tyranniſug.

a Pomp. Læt.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, so that they had not authority to enact any new Decrees, as afterward by abusing their authority they did. [b] *Sed eorum authoritas magis in intercedendo, quam jubendo.* And hence was it that in old time these Protectors of the Commons were not permitted to come into the *Senate*, but [c] they sate without at the door, whither whatsoever was determined within the *Senate* was sent unto them, to be perused by them, and if they did approve it, then did they subscribe a great Roman T, being the first letter of this word *Tribuni* [d]. The houses of these *Tribuni* stood open night and day, as a common refuge or place of succour for all that would come; [e] neither was it lawful for them to be absent out of the Town one whole day throughout the year.

b Stadius in Flor. l. 3. c. 2.

c Pigh. in suo Tyrannisug.

k Rosin. ant. Rom. l. 7. c. 23.

e Pigh. in suo Tyrannisug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three sorts of *Roman* Magistrates called *Ædiles*, the two first had their names *ab ædibus curandis*, having in their charge to repair both Temples and private dwelling-houses which belonged unto the City. The first sort were called *Ædiles curules, à cella curuli*, from the Chair of State, wherein it was permitted them to ride, and these were chosen [f] out of the *Senators*. The second sort were called *Ædiles Plebeii*, and they were added unto the former, at the earnest suit of the Commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one and the self same time, [g] but that the *Curules* should rule the one year, and the *Plebeii* the other. To these *Ædiles* it did belong, beside the reparation of Temples and private houses, to look unto the weights and measures in common sale: for they had power to examine *Actiones redhibitorias*, that

f Philet in l. 2. Cic. epist. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

that is, such Actions, by virtue of which he had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publique Conduit or water conveyances, of provision for solemn playes, &c. Of the third sort there were also two, who were in a manner Clerks of the Market: [h] for unto them belonged the looking unto the victuals sold in the Market, and corn: Whence they were called by them *Ædiles Cereales*, and [i] by the Greeks ἀγορανόμοι. This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annonæ præfectum*; only this, the *Ædiles Cereales* were *Magistratus ordinarii*; the *Præfectus*, *extraordinarius*, namely, [k] such as was chosen only in time of extraordinary dearths: he having for that time larger authority than those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Præfectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, &c.

[h] Alex. Gen. ibid.

[i] Pighius in suo Tyran.

[k] Rosin. ant. l. 7. c. 28.

CAP. 18.
De Triumviris.

BEsides that *Triumviratus Rep. constituendæ*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri Capitales*, three high Sheriffs, who had the charge of Prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There was also [l] *Triumviri Mensarii*, three men, we may term them Bankers, who had authority to pay out of the Common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called [m] *Quinque viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their money. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

[l] Alex. Gen. dier. l. 3. c. 16.

[m] I. Camer. in orat. Cic. pro Flacco.

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda.* We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri coloniæ deducendæ*; but sometimes for this purpose they erected seven, ten, or twenty, and so named them *Quinque viri*, *Septem viri*, *Decem viri*, & *Viginti viri Coloniæ deducendæ.* Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence was called *Triumviri A. A. Æ. F. F.* that is, *Auro*, *Argento*, *Ære*, *Flando*, *Feriundo*, for they had the charge of coining the mony. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly [a] *Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire.

[a] Alex. Gen. dier. l. 3 c. 16.

CAP. 19.
De Præfectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should alwaies be in readiness for the defence of the City, desired of the City a yearly subsidy for the maintenance of those Souldiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his mony for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be enriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which always attended about him for the safeguard of his person, calling them *Præfectos Ærarii.*

CAP.

CAP. 20.
De Præfecto Prætorio.

ALL Captains and Governours to whom the Rule of any Army belonged, were in antient time called [o] *Prætors*: This word *Prætor* signifying then three chief Officers among the Romans, first a Consul, secondly a L. chief Justice, thirdly a L. General in war; all of them being called [p] *Prætores, quasi Præitores, quoniam jure & exercitu præibant.* Answerable to which threefold acception, this *Prætorium* hath three several significations: sometimes it signifieth a Princes palace or Manor-house, sometimes a great Hall or place where Judgement was wont to be given, and lastly, the L. General his pavilion in the Camp; [q] from which last signification it is, that those Souldiers that gave attendance about that pavilion for the guard of their Captains person, are sometimes called *Milites Prætoriani*, sometimes *Cohors Prætoria.* [r] And he to whom the oversight of the Souldiers was committed, was thence called *Prætorio-præfectus.*

[o] Pancir. in notitiam imper. orien.

[p] Pighius in Æquipet. com. of.

[q] Asconius in Verren.

[r] Fr. Sylv. in Catil. 2.

CAP. 21.
De Advocato fisci.

FOr the right understanding of this office, we must first note a difference between these two words, *Ærarium* and *Fiscus*. *Ærarium* was a common Treasury belonging unto a whole State or Corporation, whence all publick and common expences were to be supplied. *Fiscus* was the Kings or Emperors private coffers: it may be Englished the *Kings Exchequer*: The keeper thereof was called *Advocatus Fisci*. There are many other petty officers within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors; and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 13.

De præcipuis Magiſtratibus provincialibus.

OVer the Provinces at firſt ruled certain Magiſtrates ſent from *Rome*, by Commiſſion from the *Roman* Senate, called *Prætores*, whoſe office was to adminiſter Juſtice unto the Provincial inhabitants, yea, and if occaſion ſerved, to make war alſo upon their enemy; and this was the reaſon that the number of the Prætors did ſo increaſe always, namely, according as the number of Provinces did encreaſe. The wars and tumults in the Provinces ſometimes were ſo great, that the Prætor was not ſufficient both to manage war and execute Juſtice: whereupon the Senate thought fit to ſend another Magiſtrate into the Provinces, whom they called a Conſul, becauſe properly the managing of war belonged unto the Conſul, ſo that there were at firſt two ordinary Provincial Magiſtrates, a Conſul to manage war, and a Prætor or Lord Chief Juſtice to ſit in Judgment. And if theſe two by a ſecond grant from the Senate, did continue in their office above the ſpace of a year, then were they called *Proconſules & Proprætores*. But in proceſs of time this cuſtom was altered; for then none could be Proconſuls, but thoſe alone who had been Conſuls in *Rome*: neither could any be Proprætors, which had not been Prætors at *Rome*. Their manner being that the next year after the expiration of their offices in *Rome*, they ſhould depart into ſome certain Province, to bear the ſame offices again, being not called *Conſules* or *Prætores* as before, but *Proconſules* and *Proprætores*: and for this cauſe always ſo ſoon as the Conſuls had been created, the Senate did appoint certain Provinces for the Conſuls, which being appointed, the Conſuls did either agree between themſelves, who ſhould go to the one, who to the other, and that was termed *comparare provincias*; or elſe they did decide the queſtion by lots, and that was termed *ſortiri provincias*;

[ſ] Alex. Genial. dier. l. 3. c. 3.

cias: howbeit, ſometimes the Senate did interpoſe their authority, and diſpoſe the ſame. Under the Emperours the Governours of ſome Provinces were appointed by the Senate and the people, and thoſe were called *Proconſules*, and the Provinces, *t Provincia Conſulares*; others were appointed by the Emperors, and they were called *Propretores*, and the Provinces *Pretoria Provincia*. For all this which hath been noted touching the Provincial Magiſtrates, it is almoſt *verbatim* tranſlated out of *u Roſinus*. To which we add this, namely, that every Proconſul and Propretor did uſually chuſe a Lieutenant, ſuch a one as ſhould be aſſiſtant unto him in matters of Government, whom they called *Legatum*, ſo that this word *x Legatus* ſignified three ſeveral Magiſtrates among the *Romans*: two whereof may be proved out of *y Sigonius*: firſt, that it ſignifieth ſuch a Lieutenant, or Lord Deputy under a Proconſul, or Propretor in a Province. 2. That it ſignifieth ſuch a one as is imployed in the delivery of a Meſſage or Embaſſage from one Prince or State to another: we commonly call them Embaſſadors. Laſtly, it ſignifieth a Lieutenant or chief Captain in war, whoſe place was next under the L. General. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the Lord General in counſel; whence *Polybius* commonly joyneth theſe two together πρεσβυτὰς καὶ συμβούλους, that is, *Legatos & Conſiliarios*, that the latter word might expound the former, *Lipſ. de mil. Rom. l. 2. dial.* 11. Moreover, every Proconſul and Propretor had with them certain Treaſurers, called *Quæſtores provinciales*: Theſe Provincial Treaſurers *a* were choſen by the *Roman* people commonly, namely, ſuch a number as the number of Provinces did require. After the election, they between themſelves did caſt lots who ſhould go unto the one, who unto the other Provinces: *b* ſometimes extraordinarily by vertue of ſpecial act or decree, this or that ſpecial man hath obtained this or that Province without any lottery. By the way we muſt note,

t Camer. pro L. Flacco.

u Roſin. ant. l. 10. c. 24.

x Pomp. Læt. de Mag. Rom.

y Sig. de Jur. prov. l. 2. c. 2.

a Sig. de Jur. prov. l. 2. c. 3.

b Sig. ibid.

note, that all Provincial Queſtors could not be called Proqueſtors, as all Provincial Conſuls and Prætors were called *Proconſules* and *Propretores*: *c* For thoſe only were called *Proquæſtores*, which did ſucceed thoſe Provincial *Quæſtors*, when they did either die in their Office, or depart out of the Province, no ſucceſſor being expected from *Rome*, at which time it was lawful for the Proconſul or Proprætor, to chooſe his Proquæſtor. Moreover, there were beſides theſe *Legati & Quæſtores*, *d* other Military Officers, ſuch as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferior Officers, as their Secretaries, Bayliffs, Cryers, Serjeants, and ſuch like.

c Roſin. ant. Rom. l. 7. c. 45.

d Sig. de. jur. Prov. l. 2. c. 2.

LIB. III. SECT. III.

Of the Roman *Puniſhments.*

CAP. I.

Supplicia, Mulcta, Lex Ateria, Tarpeia, Ego ei unum ovem mulctam dico, &c.

TOuching the Military Puniſhments, which belonged to the Military Diſcipline; it ſhall be treated of in its proper place. Here only of the City Diſcipline, & the uſual Puniſhments exerciſed therein, which we may divide thus. Puniſhments publickly inflicted on malefactors, are either *Pecuniary mulcts*, or *corporal puniſhments*: The *Pecuniary mulcts* were of two ſorts; either an appointed ſum of money was required of the party guilty, and then it was called *Mulcta*; or his whole eſtate was ſeiſed on, and then it was termed a *Confiſcation* of his goods. The *Mulct* was twofold, the one termed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe *a Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & triginta boum, pro copia ſcilicet boum, & penuria ovium; ſed cum ejuſmodi mulcta pecoris armentique à magiſtratibus dicta erat, adigebantur boves oveſque, alias pretii parvi, alias majoris, eáque res faciebat inaqualem mulctæ punitionem:*

a Gell. l. 11.

punitionem: idcirco postea lege Ateria constituti sunt in oves singulas æris deni, in boves æris centeni: Minima vero mulcta fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem mulctam dico*, &c. The Law which *Gellius calleth Ateriam legem*, h *Festus* calleth *legem Tarpciam*, because *Arerius* enacted it when he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the Clemency used in those times. It was provided by the Law, that seeing there was a greater plenty of Oxen than of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine, c *Bovem prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.*

h Festus in voce peculari.

c P. in lib. 18. c. 3. It. Alex. ab Alex. l. 3. c 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua & Igni interdici, Proscriptio, Lata fuga, Deportatio, προγράφειν, ςηλιτεύειν, Ærarii, In ærarios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments were either such as were *Capital*, depriving a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acception; for the loss of freedom, which the *Romans* called *capitis diminutionem*, disfranchising, because in every Freeman thus Disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That Disfranchising, called *capitis diminutio*, was d threefold, *Maxima, Media & Minima*. The least degree was, when the *Censors* pulled a man from an higher Tribe, down to a lower and less honourable,

d Rosin. ant. l. 9. c. 31.

honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voice in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In ærarios relati*, e *quia omnia alia jura civium Romanorum præterquam tributi & Æris conferendi amiſerunt.* This kind of puniſhment as it may ſeem, was many times exerciſed for irreverent geſture or ſpeeches uſed by ſuch as were queſtioned by the Cenſors. Three ſeveral examples are noted by *f Gellius*; the laſt is this, *P. Scipio Naſica* and *M. Pompilius* being Cenſors, taking a view of the *Roman* Knights, obſerved one of them to have a lean ſtarvling horſe, himelf being fat and in good plight; whereupon they demanded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus. Diminutio media*, was an exilement out of the City, without the loſs of ones freedom: *g* It was commonly ſet down in this form of words, *Tibi aqua & igni interdico.* And it ſeemeth by *h Cœl. Rhodiginus*, to be all one with that kind of baniſhment which the *Romans* called *Proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe he will not appear in the Court, the form thereof was thus; The Creditors having obtained leave of the Lord Chief Juſtice to proceed in this manner, they committed the ordering of the ſale to one principal creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in form as followeth, i *Ille debitor*] *noſter in ejuſmodi cauſa eſt, ut bona ejus divendi debeant; nos creditores patrimonium ejus diſtrahimus; quicunque emere volet, adeſto.* But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great confuſion in the Authors that treat of this puniſhment: and becauſe both were performed by ſolemn and publick

e Sig. de Jur. Rom. l. 1. c. 17.

f A. Gel. noct. Attic. l. 4. c. 7.

g Camerar. in orat. Cic. pro Mur.

h Cœl. Rhod. l. 15. c. 17.

i Roſin. ant. l. 9. c. 21.

publick Proclamations, hence the name *Proscriptio* agreed as well to the goods confiscated, as to the persons banish'd; according to that, *k Quoniam eorum nomina in publico scribebantur, hinc proscribi dicebantur.* Hence the *l* Grecians used not only the word προγράφειν, but also στηλιτεύειν, to signifie the act of *proscription*, because they wrote in a publick pillar the faults and offences of such as were thus banished. But to proceed without further digression, *Diminutio maxima* was the loss both of the City, and the freedom; and this I take to be the same which in other terms was called *Lata fuga*, or *Deportatio*; namely, a perpetual exilement: All standing in opposition to that other kind of banishment, called *Regulatio*, which was the exilement * only for a season, happily for five years, *&c.* See *Rhod. lib.* 10. *cap.* 5. Though I deny not but that *lata fuga* was so called, not only in respect of the duration of time, it being a perpetual banishment, but also in regard of the places so generally prohibited; *m* for he that was thus banished, was tyed and limited to one particular Country, all other places in general being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in *Roman* Authors, are these which follow: *Furca, Crux, Carcer, Culeus, Equuleus, de rupe Tarpeia dejectio, Scala, Gemoniæ, Tunica, Damnatio, in gladium, in ludum, ad bestias.* In general we are to note, that the execution was without the Gates of the City, to prevent the noisomness which such abundance of blood might occasion, *n* for which reason the Executioners dwelt without the City. Likewise those that were adjudged to death, when they went to the place of Execution, a certain little Bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kind of pollution: this *o Turnebus* observed out of *Zonaras*, and from thence the Executioners were called *p Lanii cum tintinnabulis.* And for this reason

k Fr. Matur. in Philio. orat. 5.
l Suid. in voce στήλη.
* Adde quod edictum quamvis immite minaxq; Attamen in pœnæ nomine lene fuit; Quippe relegatus, non exul dicor in illo. Ovid. de trist. lib. 2. Eleg. 1.
m Tholosan. syntag. Jur. universal. 31.
n Plaut. Cas. 2. 6.
o Turneb. adv. lib. 11. c. 21.
p Plaut. Pseud. lib. 3.

reaſon *q* it was, that a little bell and ſcourge was hanged up in the hindmoſt part of the Chariot, wherein the Lord General did ride in his triumph, a publick Officer which rid with him in the ſame Chariot, now and then plucking him behind, and bidding him look back, uſing this form of words, r *Reſpice poſt te, hominem memento te*, that is, *Sir look behind you, remember your ſelf to be but a man.* For the ſight of the ſcourge and bell ſerved to put him in mind; that notwithſtanding his preſent Triumph and Acclamations, his after-miſeries might be ſuch, that he might be puniſhed not only with whips, but even with death it ſelf.

q Roſin. ant. l. 10. c. 29.

r Tertul. Apol. c. 33.

CAP. 3.

Furca, Furcifer, Supplicium more Majorum, ſheryua.

ANcient Authors which do write of the *Roman Furca*, do rather mention it, than explain it: but if we diligently obſerve what they ſpeak of it, we ſhall find the uſe thereof to have been threefold. The firſt ignominious, which *a* was when the Maſter forced the ſervant for ſmall offences *furcam circa urbem ferre*, to carry his *furca* upon his ſhoulders about the City, confeſſing his fault, and admoniſhing others to beware of the like offence, and *b* hence ſuch a ſervant was afterward called *furcifer*; and hence I think was the uſe of thoſe *ſtimuli* or goads, whereof I ſhall ſpeak more in the Chapter following; namely, that when the party thus to be puniſhed dragged back, and ſhewed himſelf unwilling, then did the Executioner prick him forward with theſe kind of goads. The ſecond ſort was penal, when the party having the *furca* on his neck, was led up and down the Cirque, or ſome publick place, and on the way to be whipt, but not unto death: *c* thus *C. Matienus damnatus ſub furca diu virgis caſus erat, & ſeſtertio nummo veniit.* He

a Iſidor. orig. l. 10.

b Plutarch. in Coriol.

c Epit. Livii. dec. 5. lib. 6.

wa

was afterwards sold, and therefore died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it to death; and this was by a peculiar name called *d Supplicium more majorum*. This yet differed from that beheading with an Ax, which was in use among the Romans, and called by the Grecians πελεκισμὸς from πελεκὺς, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this σταυρῷ πρόσδεσις a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the *e* execution of *Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastened; it resembleth a fork, and the *furca* is called ξύλον δίπλοῦν, δικροῦν, δίδυμον, i. e. *lignum duplex, bicornutum, geminum*, in English a forked piece of timber, there is no such piece throughout the whole Wain, as the form of Wains is in these times, but only the beam thereof. *f Plutarch* treating of the *furca*, saith that it is ξύλον ἁμάξης ᾧ τὸ ῥυμὸν ὑπεροίδουσι, that is, a piece of timber about the waggon or wain, wherewith they upheld the beam; and he addeth, that what the Grecians call ἀντιστάτον and στήριγμα, the Romans call *furca*; now *Hesychius* describeth στήριγμα to be τὸ δικροῦν ὅπερ ἀπεγίθεσαν τῷ τῆς ἁμάξης ζυγῷ, that is, the forked piece of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*; and for τὸν ῥυμὸν read τὸ ζυγὸν, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded; but how this can stand with *Hesychius* his description of στήριγμα, I am yet to learn; notwithstanding

d Sueton. in Ner. 49.

e Dion. l. 49.

f Plut. in Coriol.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakned; namely, that the form of the old Roman *furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the ancient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use; and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *g Constantines* time.

g Sozom. Eccles. hist. l. 1. c. 8.

CAP. 4.

Crux, Servile supplicium, Titulus.

CRucifixion hath been a punishment in ancient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet *h* sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that *Guardian which *Galba* crucified for poysoning his Ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. *i Malefici cum ad supplicium educuntur, quisq; suam effert crucem.* k *Artemidorus* is as plain, Ἴσχει γὰρ καὶ ὁ σωρὸς θανάτου καὶ ὁ μέλλων σταυροῦσθαι τὸν σταυρὸν φέρει; that is, The Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his clothes, for he suffered *l* naked; then

h Vid. Lipsi. de cruc. l. 1. c. 11.
* Suet. Gal. 9.
i Plut. de sera numinis vind.
k Vid. Lipsi. de cruce l. 2. c. 5.
l Artemid. l. 2. c. 51.

then was he fastned unto the Cross, and that commonly with nails, the Greek word προσήλωσις clearly evinceth as much, we may render it *Clavifixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters; hence *m Dio* speaketh of a servant dragged to the Cross μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούντων, that is, with letters declaring the cause of his death. This inscription was called αἰτία, *Mat.* 27. 37. It was also called τέτλος *Joh.* 19. 19. from the Latine word *titulus* used in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας, *Mar.* 15. 26. or simply ἐπιγραφὴ, *Luke* 23. 38. *n Tertullian* and *o Suetonius* calleth it *elogium*. The like kind of publishing the cause either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus p* the Martyr was led about the Amphitheatre, πίνακος αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαϊστὶ, οὗτός ἐστιν Ἄτταλος ὁ χριστιανός. i. A table being carried before, in which was written in Latine, *This is* Attalus *the Christian*. That of *q Suetonius* is not much unlike, *Patrem familias detractum è spectaculis in arenam canibus objecit, cum hoc titulo, Impie locutus Parmularius*. What is ment in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two. First, *r Verbera intra aut extra pomerium*. Secondly, *Arbore infelici suspendito*. This whipping was sometimes *sub furca*; for this, * *Valerius* is plain, *Cum servum suum verberibus mulctatum sub furca ad supplicium egisset*; sometimes *ad columnam*, *Artemidorus* is clear in this, προσδεδεὶς κίονι πολλὰς ἔλαβε πληγὰς, that is, being tied to the Pillar he received many stripes. Haply *s Plautus* alludeth to the same:

——— abducite hunc
Intro atq; adstringite ad columnam fortiter.

Yea, the antient *t* Fathers say that our blessed Saviour

m Vid. Lips. de cruce l. 2. c. 11.
n Apol. c. 11.
o Suet. in Cal.
p Euseb. eccl. hist. l. 5. c. 1.
q Suet. Dom. c. 10.
r Liv. l. 1.
* Val. Max. l. 1. c. 7.
s Plaut. Bac.
t Prudentius Hieronym. Beda. vid. Lips. de cru. l. 2. c. 4.

was thus whipt: Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that withscourges, τὸν Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution, I much doubt; much more that they should be goaded on the way with pricks and goads by the executioner. That there was *Stimulorum supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that other phrase of *kicking against the Pricks*. Parallel to which is that of *Plaut. Trin.* 4. 2. *Stimulos pugnis videre*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled, was termed *x Carnificiam cerberum*, because he had his back so bored with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed; * for to that end thieves were thus tortured, and thence were they called *centrones*, from κέντρον *Stimulus*. Lastly we must remember that these three words, *Furca*, *Crux* and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright; and *Patibulum*, the thwart piece of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the *Roman furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Pateo* to lie open; because

as

a Plaut. mil. 2. 6.

x Plaut. Most.

* Cœl. Rhod. lect. antiq. l. 10. c. 5.

as the malefactors hands were ſpread abroad being faſtened to the thwart piece of timber upon the top of the Croſs: ſo were they likewiſe ſpread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

CAP. 5.

Carcer, Ergaſtulum, Tullianum, Robur, Mala manſio, Nervus, Columbar, Numella, Codex.

HOwſoever *Carcer* and *Ergaſtulum* are uſed promiſcuouſly by modern Writers, yet if we diligently enquire into each words origination, and how they have been uſed by more antient Authors, we ſhall find them thus differenced. *Ergaſtulum* was a Priſon much reſembling our houſe of *Correction*, into which ſervants only were caſt: *Carcer* a more publick Priſon; unto which men of better rank and faſhion upon juſt occaſion were committed. Secondly, the power of ſentencing any ſervant to the *Ergaſtulum*, was proper and peculiar to the Maſter of the ſervant, without approbation from publick authority: but the power of committing to the Priſon called *Carcer*, was only in the publick Magiſtrate. Thirdly, *Ergaſtulum* took away only the liberty and pleaſure of life: *Carcer* life it ſelf. The word *Carcer* hath his name *à coercendo*, from reſtraining men from their liberty. *a* It had two principal parts, the one called *Tullianum*, the other *Robur*, beſides many other rooms wherein men were kept cloſe priſoners: thoſe two places were aſſigned for execution. In that which they called the *Tullianum* (we may Engliſh it *Dungeon*) they ſtrangled malefactors. *b* It had its name from *Servius Tullus* a *Roman* King, the firſt inventor and Author thereof. Of this *Saluſt* writeth, *Eſt locus in carcere quod Tullianum appellatur, ubi paulatim aſcenderis ad lævam circiter duodecim pedes humi depreſſus, eum muniunt undiq; parietes, atq; insuper camera lapideis fornicibus juncta, ſed inculta tenebris, odore fœda, atq; terribilis ejus facies eſt.* In that other place which they called commoly

a Sig. de jud. l. 3. c. 17.

b Sig. ibid.

commonly *Robur*, ſometimes c *Robuſtus Codex*, ſometimes d *Cuſtodia lignea*, ſometimes e *Italum robur*, (our Engliſh phraſe *ſtrong hold* fitly anſwereth it) they broke malefactors necks by a kind of precipitation or tumbling them headlong f from a certain ſtock of a Tree faſtned there in the earth, unto this *Tully* alludeth, *Quaro fregeris ne in carcere cervices illi ipſi Vetitio:* But more expreſly *Plautus*, g *At ego faciam vos ambos in robuſto carcere ut pereatis.* Thoſe that had the chief overſight in ſuch executions, were called *Triumviri capitales*, that is, *High-Sheriffs*. The whole proceeding is ſet down by *Valerius*, h *Mulierem damnatam Prætor Triumviro necandam in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſerico rdia motus non protinus ſtrangulavit; aditum etiam filiæ dedit, ſed diligenter excuſſæ, ne quid cibi inferret, exiſtimans futurum, ut inedia conſumeretur; cum vero animadvertiſſet filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium judicum pertulit, & remiſſionem mulieri impetravit.* It is much controverſed among Interpreters what that kind of puniſhment was which they termed *Malam manſionem*, we may Engliſh it, *Little-eaſe*. Some underſtand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latin *Puteus*, but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeviſh Cooks: i *Coqui abſtulerum, comprehendite, vincite, verberate, in puteum condite.* Others underſtand hereby a cloſe Priſon, which becauſe of its ſtraitneſs and cloſeneſs they called *arcam*, a cheſt: the uſe of this Priſon was for the ſafe keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe Priſons *Tully* ſpeaketh, k *Subito abrepti in quæſtionem, tamen ſeparantur à cæteris, & in arcas conjiciuntur, ne quis cum his colloqui poſſit.* Another kind of Priſon there was, called *Sextritium*, thus it is commonly rendred in Latine, but the Greek word is σεστέρτιον, and accordingly l *Turnebus* renders it *Seſtertium*, being

e Plaut. Pœn. 5. 3.
d Plaut. Pœn. 5. 6.
d Hor. lib. 2. Od. 13.
f Turn. adv. l. 23. c. 22.
g Plaut. in cur. c. act. 5. ſc. 5.
h Val. l. 5. c. 4.
i Plaut. Aulul. 2. 5.
k Cic. pro Milone.
l Turn. adv. 3. c. 18.

being of opinion that it was ſo called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where thoſe were executed whom the *Roman* Emperours adjudged to death: now whether that *Spoliarium* were a place of puniſhment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed ἀποδυτήριον, both do ſignifie primarily little Cells or Chambers near adjoyning to the Bath, where ſuch as waſhed themſelves laid up their clothes; In a borrowed ſenſe both are uſed to ſignifie Chambers and Cells adjoyning near unto the Amphitheatre or fencing place, wherein the Fencers did put up their clothes in time of fight, and becauſe ſuch as were wounded in fight were carried into thoſe Chambers, where they languiſhing with much pain, at laſt notwithſtanding expired for the moſt part, and that not without much torturing of the Chirurgion; hence ſuch a *Spittle-houſe*, is alſo called *Spoliarium*. Thus much *Seneca* ſeemeth to intimate, *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in ſpoliario, quam in arena malit?* Whereby it appeareth that *Spoliarium* was not a priſon, unto which malefactors were judged, but rather as I ſaid, a kind of *Spittle-houſe*. Other kind of puniſhments there were of a near likeneſs with Impriſonments, as caſting into the Pillory, laying one by the heels, *&c.* Of theſe little is ſpoken more than the very names: of this ſort thoſe that do moſt commonly occur in Authors, are theſe; *Nervus, Collumbar, Numella, Codex.* *Nervus* is generally thought to reſemble our *Stocks*. *d* Some take it to be made of wood, others of iron, *e Nervum appellamus ferreum vinculum, quo pedes impediuntur: quanquam Plautus eo etiam vinciri cervices ait.* Two of the laſt ſeem to have ſome reſemblance with our Pillory: *Collumbar* had its name from *Collum*, becauſe the neck was chiefly pained in

b Plut. in Galba.

c Sen. ep. 94. De ſpoliario. Vid. Lipſ. ſat. 1. 18.

d Vid. Taubman in Plaut. Aulul. 4. 10.

e Feſt. Vid. Lam. in Plaut. Aulul. 4. 10.

in this kind of punishment. *Numella* was also a kind of *Pillory*, being so called, *quasi* n *Nuella, quod qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur. Codex* was a certain block or *Clog*, so tyed unto the Malefactors, that they used it as a stool to sit on: The use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh, *Sat.* 2.

n Turn. adv. l. 23. c. 21.

Horrida quale facit residens in condice pellex.

o Turnebus describeth it thus, *Codex est lignum stipes, quem allegati servi qui deliquerant trahebant, cuique insidebant vincti.*

o Turn. ibid.

CAP. 6.

CULEUS.

THe crime which in Latine we call *Parricidium*, is murder practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old time a larger acception, signifying any murder between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither *p Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts: but the wickedness of the after-times, enforced Lawgivers to invent a sharp punishment against such unnatural offences. The punishment decreed against Parricides in *q Seneca*'s Age, was that such Malefactors should be sowed up in a leathern sack, together with serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal. Satyr.* 8.

p Cic. pro Sext. Rosc.

q Sen. lib. 5. controv. 4. in fine.

Cujus

Cujus ſupplicio non debuit una parari
Simia, nec ſerpens unus, nec culeus unus. Juv. ſat. 8.

[a] *Modeſtus* deſcribeth the manner thereof thus: The Parricide being firſt whipt with rods until the blood came, then was he ſewed up in this ſack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. [b] They would not caſt him naked into the ſea, leſt the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

[a] Digeſt. lib. 48. ad legem Pomp. de Parric. vid. Cœl. Rhod. l. 11. c. 21.
[b] Cic. pro Sext. Roſc.

CAP. 7.

Eculeus, Lamina, Ungulæ, Fidiculæ, χονισμὸς.

Eculeus had its derivation from *Equus, quaſi Equuleus*, as may be collected from that deſcription which [c] *Turnebus* giveth; but not ſo much from the poſiture or ſituation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wiſe reſembled a man on horſeback, but rather from the horſing or hoiſing up of the party faſtned with ropes unto the *Equuleus*, ſo that his hands being tied faſt at the upper part of the Engine, and his feet at the nether part, he was hoiſed up in the air like unto one faſtned on a Croſs. The form of the *Equuleus* I conceive thus: It was not one intire ſtake but rather two long pieces of timber joyned together in form of a ſtake; joyned together, I ſay, by the means of a vice or ſcrue, and the reaſon hereof was, that by help of this ſcrue; the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the eaſing and remitting of his pains, as ſhould ſeem good to the executioner, or other Officers who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of puniſhment, but to enforce him unto a confeſſion by an augmentation of his pain

[c] Turn. adv. l. 4. c. 3.

they did often with hot plates and iron pinsers, burn and tear his flesh from his sides; and all this we shall find warranted by *d Sigonius*, whose words I have written down at large, *Eculeus catasta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, ut facti veritas eliceretur, instituta. Tormenti vero genus erat hujusmodi, ubi catastæ huic brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebantur, alligaverant, tum catasta intenta atq; in altum erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus ejusdum corpori laminis admotis, atq; bisulcis ungulis ferreis lateribus laniatis doloris acerbitatem augebant.* And thus we see what the use of those *Lamina & Ungulæ* were: namely, that they were not several torments of themselves, but adjuncts to this, to encrease the pain. The *Eculeus* was sometimes called [e] *lignum tortorium*: sometimes [f] *stipes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifieth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith men were tortured upon it: of this [g] *Turnebus* writeth, *Fidiculæ quæ in tormentis numerantur, mihi videntur lascivia quadam joci nomen invenisse, quod ut in fidibus nervi, item quoq; ut nervi hinc & inde multis funibus homines distendebantur.* The torment χονισμὸς used by the *Grecians*, was either this same or very like.

d Sig. de Jud. l. 3. c. 8.

e Sozo. hist. Eccl. l. 5.
f Prudent. in hymno. Vincent. Mart.

g Turn. adv. l. 4. c. 3.

CAP.

CAP. 8.

De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, ludum, ad beſtias.

MAlefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian* Mount. This kind of puniſhment was called either ſimply *Dejectio è ſaxo*, or *Dejectio è Tarpeia rupe.* In ſome caſes notwithſtanding by the interceſſion of friends, or ſome other means, Pardons were ſometimes obtained for the condemned perſons, whereby they were freed from death, howſoever the diſgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti:* which phraſe [h] *Cæl. Rhod.* hath parallel'd with that, *à furca redempti*, that is, *Saved from the Gallows.* In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*, certain ſtairs whither condemned perſons were dragged, and ſo caſt headlong into the river *Tiber.* *Cæl. Rhod.* ſeemeth to be of another opinion: [i] who deſcribing this puniſhment, ſaith that a hook was thruſt into the malefactors throat, and ſo he haled by the Executioner unto theſe ſtairs, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonii*, becauſe as ſome are of opinion, the firſt that ſuffered this kind of puniſhment, his name was *Gemonius*, or as others would have it, becauſe it was *locus gemitus, & calamitatum.* If we admit that malefactors were here burnt, then may we think this puniſhment *ad Scalas Gemonias* to be the ſame, which ſometimes was called *Tunica.* The reaſon of which name was becauſe perſons thus to be burnt, were clad with a Coat dawbed in the inſide with pitch and brimſtone. Thence is that of [k] *Seneca, Cogita illam tunicam alimentis igneam & illitam & intextam.* This giveth light to that of *Juv. Sat.* 8. *Tunica punire moleſta.*

[h] Cæl. Rhod. ant. l. 25. c. 22.

[i] Cæl. Rhod. l. 10. c. 5.

[k] Sen. ep. 14.

l Tertul. ad Martyr.

[l] *Tertullian* also mentioneth it in this sence. To these may be added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, until some publick prizes were plaid, at what time such a condemned person was to fight for his life. [m] *Capitolinus* called it *Ad gladii ludum deputationem*. But *Ulpian*, as [n] *Lipsius* elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compass of a year: but he that was *damnatus in ludum*, had not death so peremptorily sentenced upon him; if he escaped the danger of those publick prizes, and alwaies got the upper hand of his adversaries, at three years end he received the *Rudem*, or wand, which was a token of discharge from those bloody combats: yea, at five years end he received the *Pileum* or Cap, which was a token of his enfranchisement or freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Bears, Leopards, Lions, *&c.* The persons condemned were termed [o] *Bestiarii*. A memorable example thereof we have in a certain *Roman* servant called *Androclus*, [p] who having run from his master, lived in a wilderness, and whiles he rested himself in a den, there came a fierce Lion unto him, moaning and grieving because of a stump of a Tree which stuck fast in his foot; *Androclus* at the first began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a shew-place for *Androclus* to fight with, where instead of

m Vid. Lipſ. Sat. l. 2. c. 3.
n Lipſ. ſat. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.
p A. Gel. l. 5. c. 14.

a

a fierce on ſet, the Lion uſed a tame and familiar fawning on him, whereupon the ſpectators admired, and underſtanding the former paſſages between *Androclus* and the Lion, they releaſed the ſervant, and freed him from his puniſhment. Where we muſt note, that this Pardon was extraordinary: [q] for uſually if any ſo condemned happened to overthrow a Beaſt or two, yet was he not thereby diſcharged: but was to encounter with others until he were killed. Yea, it was very ſeldom that the man could prevail againſt the beaſt, on the contrary, one Lion hath prevailed againſt two hundred men, according to that, [r] *Præclara ædilitas, unus Leo ducenti beſtiarii.* By which we ſee many men one after another did thus fight with beaſts at the ſame meeting; yea the [ſ] *Grecians* called ſuch as ſucceeded the firſt Combatants ἐφέδρους, the Apoſtle St. *Paul* [t] calleth them ἐσχάτους, becauſe they were reſerved untill the laſt. [u] *Tertullian* readeth that place in this ſenſe, and the words themſelves enforce as much: for what ſhall we underſtand by διαγὸν ἐνέδειξε, but the very ſpectacle or ſhew it ſelf? and what by ἀπέδειξεν, which ſignifieth properly *oſtendit*, but an alluſion to him who was the chief Author and exhibiter of theſe bloody ſpectacles unto the people? * *Lipſius* hath paralleld that phraſe of *Tully*, *Oſtendere munus*, with that of *Suetonius*, *proponere munus*; both ſignifying the ſetting forth or beſtowing the ſight of ſuch maſteries and fightings. And that it was no unuſual kind of Martyrdom in times of the Primitive Church, thus to expoſe holy men to the fury and rage of wild beaſts, appeareth by the example of *Ignatius*, who rejoyced to be ground between the teeth of wild beaſts, that he might be found pure bread; whoſe words were, [x] *Frumentum ſum Chriſti, & per dentes beſtiarum molor, ut mundus panis Dei inveniar*: yea the word Ἐπιθανατίους *morti addictos*, helpeth this interpretation: The word intimateth that there was a ſure death remaining for them alſo though the laſt. The cuſtom being in the morning to commit men with beaſts, but thoſe

[q] Salmuth. in Pancirol. de veter. ludis.

[r] Cic. in orat. pro Sellio.

[ſ] Suidas in voce Ἐφέδρους

[t] 1 Cor. 4. 9.

[u] Tertul. lib. de pudicit.

* Lipſ. Sat. l. 2. c. 18.

[x] Iren. adv. hær. l. 5. c. 28. It. Euſ. hiſt. Eccl. 3. c. 33.

thoſe ἐξατοὶ which remained till noon-tide, and were therefore called *y Meridiani*, was commited each againſt other, and that without any defenſive weapons, with ſwords in one hand cutting, and with the other hand being empty, graſping and tearing each others fleſh, ſo that *z Seneca* ſpeaking of this, comparing it with that former fighting with beaſts, ſaith, *Quicquid ante pugnatum eſt, miſericordia fuit.*

y Suet. Clau. c. 13.

z Sen. ep. 7.

CAP. 9.

Ergaſtulum. Ergaſtula inſcripta. Piſtrinum. Damnari in Antliam. Metallum. Inſcripti. Stigmatici. Literati. Virga. Flagella. Talio.

THe ſtate and condition of ſervants was various and differing among the *Romans* in old time, but of all they were moſt miſerable who lived in priſon. Whence thoſe that were ordinarily imployed in theſe priſon ſervices, they were either ſuch ſervants as were bought for that purpoſe, or ſuch as for notorious crimes were adjudged thereunto in way of puniſhment, whence the word *Ergaſtulum* is juſtly derived from the Gr. ἐργάζομαι beauſe it is τόπος ἐν ᾧ οἱ δεσμῶται ἐργάζονται, *locus in quo vincti operantur.* For even in the day-time when they were ſent to work, they had ſhackles and bolts about their legs to prevent their ſcapes or running away, though not ſo big as thoſe into which they were caſt at night when they returned into priſon. Their fetters or bolts are oftentimes in ancient writers (peradventure from the form of their links) termed *Annuli*, and themſelves ſaid to have *pedes Annulatos.* They had alſo their foreheads marked or burned with ſome letters of infamy, which is the reaſon of *Juvenals* Epitheton, *Inſcripta Ergaſtula.*

Quem mire adficiunt inſcripta Ergaſtula.

The labours in which they were imployed, were ſometimes digging, delving, and tilling the ground: ſometime digging of quarry pits, ſometimes grinding with an hand-mill, ſometimes drawing water; This latter kind of

of puniſhment in [m] *Suetonius* his phraſe is *Antliam damnari*. Thoſe Criticks who for the word *Antlia* do ſubſtitute *Amicyra*, or *Andia*, or ſuch like names of Iſlands, do utterly fail of the Authors ſcope and drift; for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or unuſual puniſhment: now ſeeing that Senators themſelves were often exiled, it could not ſeem ſtrange that *Roman* Knights ſhould be baniſhed into forraign lands; but this was a matter unuſual, and unheard of that a *Roman* Knight ſhould be imployed in ſuch drudgeries. Again, the word *Antlia* fitly denoted ſuch a kind of labour, whether we reſpect its Etymologie ἀπὸ τῦ ἄλλᾶν, or its ſignification in Latine Authors, it being uſed by them to ſignifie a great bucket, or water ſcoop to draw up water. Thus *Martial. Curta laboratas antlia tollit aquas.*

[m] Suet. Tib. c. 15.

The hand-mill is often expreſt by the latine word *piſtrinum*, a word frequent in Comical Authors. It much reſembled our *Bride-well*, or place of correction, being called *piſtrinum a pinſendo*, from pounding. For before the uſe of mills was known, the *Romans* did pound their corn in a great morter, calling the place where they pounded it *piſtrinum*: whereupon our hand-mill hath retained the ſame name to this day. And becauſe of the great pains that men did ſuffer in pounding; as likewiſe the ſtrict diſcipline uſed towards ſervants thus puniſhed (for [n] their neck was thruſt into a certain wooden Engine called *Pauſi cape*, made for the purpoſe, leſt haply in time of grinding they might eat of the meal) hence grew a cuſtom among them that when a ſervant had offended his maſter he would menance him in this manner, *In piſtrinum te dedam*, I will caſt thee into *Bride-well*. The puniſhment *Metallum* was not much unlike the digging in metal-mines, and working in metal houſes, it appeareth not only to have been a baſe and ſervile, but alſo a very laborious and painful work: whence it was eſteemed a grievous puniſhment to be adjudged to metal works, or caſt into a metal houſe. And either for the increaſe of

[n] Turn. adv. l. 4. c. 13.

ſuch

such mens pains, or for to keep them from escapes they were enforced to work with their fetters and gyves about them, as is implied by [o] *Ulpian*, who makes the difference between these two phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave it to the inquiry of others, but that it was a great and infamous punishment [p] *Tertullian* witnesseth, in that speech of his against the Heathen people, *De vestris semper æstuat carcer, de vestris semper metalla suspirant.* Sometimes there was only ignominy, and disgrace intended in their punishments, of which sort was the bearing up and down the *Roman furca* in the Market place, or elsewhere in publick view, whereof I have spoken in the Chapter of *Furca*, likewise a branding of the malefactor with some infamous letter in the forehead or hand, or some other part of the body: whence [q] *Pliny* calleth such servants *Inscriptos*. Generally they are called *Stigmatici*, from στίζω, which signifieth to brand with marks; as *Nebulo stigmaticus*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Samii*, [r] as often as they took the captives, they did use thus to burn them for rogues, which occasioned that proverbial scomme, *Samiis neminem esse literatiorem.*

o Vid. Cœl. Rhod. l. 10. c. 5.

p Tertul. Apolog. c. 44.

q Plin. l. 18. c. 3.

r Cœl. Rhod. l. 7. c. 13.

Sometimes besides the disgrace, there was also toilsom pains, as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Though I deny not, but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold, either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virgæ*; the other with scourges called *Flagella*. That there was a difference between *Virgæ* and *Flagella*, is plain by *Tully*, where by way of Irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit.* Both of them were counted servile, so that freemen were ordinarily exempted from them, as appeareth,

—[m] *Ad*

——— [m] *Ad necem operire loris.* San. *loris liber?* [m] Ter. Adel. act. 2. scen. 1.

Horace also intimating the servile conditon of *Mœva*, saith,

[n] *Sectus flagellis hic triumviralibus.* [n] Epod. Od.

They are called *Flagella triumviralia*, from those *Triumviri* whom formerly I translated *Sheriffs*, because to them belonged the oversight of the punishment. *Eustathius* calleth them ἀσραγαλωτὰς μάστιγας, i. e. *Flagra talaria, seu taxillata*, because to augment the pains, they did usually in these scourges tye certain huckle-bones, & plummets of lead at the end of the whip cords, or thongs, and such scourges they termed *Scorpiones*. The cruelty of the scourges was such, that they many times died under them. Thus have we generally and briefly touched the more usual Punishments. But sometimes wrongs done between party and party, were punished with a retaliation of the same kind: according to that, *A tooth for a tooth, and an eye for an eye.* And this kind of punishing was called *Talio*. Yet we are to know that a simple retaliation, such as is termed *Talio Pythagorica*, was not always exacted; but sometimes satisfaction might be wrought by a commutation of the punishment. [o] *Reus habuit facultatem paciscendi & non necesse habuit pati talionem, nisi eam elegisset.* It were endless to speak of all their punishments, and haply not worth the labour, their very names being sufficient Comments to explain them. As *Effossio oculorum*, *Amputatio manuum*, *Crucifragium*, *Talisfragium*, and such like. Tholosan. in Synt. jurid. univ. c. 1. l. 31. [o] A Gel. l. 11. c. 1.

LIB. III. SECT. IV.

Of the Roman *Laws.*

CAP. I.

Le Legibus.

HAving ſpoken of the Civil Magiſtrates, and puniſhments, we will now alſo deſcend unto the Civil Law: where firſt we will note among other differences between *Jus* and *Lex*, principally theſe. 1. *Lex* ſignifieth only the Law, but [a] *Jus* ſignifieth alſo that place, whereſoever the Law or Juſtice was adminiſtred: not only if it were adminiſtred out of the Tribunal in the *Comitio*, or great Hall of Juſtice, which was termed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a private houſe, or in ones journey, ſo that it were by a lawful Magiſtrate, and out of a curule chair; and this was termed by the Lawyers, *Agere de plano*: and hence is it, that *In jus vocare* ſignifieth to cite one into the Court. 2. *Lex* ſignifieth only the written Law, but *Jus* ſignifieth equity, ſo that [b] *Jus permaneat ſemper nec unquam mutetur, Lex verò ſcripta ſæpius.* Notwithſtanding theſe two words are uſed promiſcuouſly one for the other, and therefore leaving all curious differences between thoſe words (whether the Roman laws were truly *Jura* or *Leges*) thus much we may obſerve, that the laws uſed among them were of three ſorts:

[a] Sig. de Jur. Lib. 1. c. 7.

[b] F. Sylv. in orat. pro Mil.

ſorts: either they were ſuch as were made by ſeveral *Roman* Kings, and afterward collected and digeſted into a method by *Papirius*, [c] from whence it was called *Jus Papirianum*: or they were ſuch as the *Decemviri* brought from *Athens*, and were called *Leges 12. tabularum*: or laſtly they were ſuch as the *Conſuls*, the *Tribuni plebis*, and ſuch Magiſtrates did prefer, whence every ſeveral law bore the name of him or them that preferred it. My purpoſe is to explain only this latter ſort, and that not all of them, but ſuch alone as I have obſerved in *Tully*, and that chiefly in his Orations. My proceeding ſhall be firſt to ſhew the divers kinds of Judgements: and then to deſcend unto the laws themſelves, beginning with thoſe which ſhall concern the *Roman* Religion, and then proceeding to the others which concern the Common-wealth.

[d] F. Sylv. in ep. virorum illuſt. l. 5. ep. 11.

CAP. 2.

De Jure publico & privato.

THe caſes to be decided by the law were either publick or private, and accordingly were the judgements, [d] *vel privata, in quibus jus ſuum privatus quiſq; perſequebatur: vel publica, in quibus injuria quæ reip. facta erat vindicabatur.* The private (as we obſerved before) belonged unto the *Prætori urbano & peregrino*, that is, the L. chief Juſtices, who did either give judgement themſelves, and then were they ſaid *judicare*, or they did appoint others to ſit in judgement, and [e] then were they ſaid *Judicium dare*: in the abſence of the *Prætors* there were ten call'd *decem-viri Silitibus judicandis*, i. e. [f] *ſuper lites judicandas*, who in the ſame manner as the *Prætor*, might either give judgement themſelves, or appoint others, for they were even in ſome place and inſtead of *Prætors*. Thoſe which either the *Prætor* or the *Decem-viri* did appoint to debate the caſes under them, were taken out of the *Centum-viri*, that is [h] out of certain Commiſſioners choſen for that purpoſe

[d] Sig. de jure Rom. l. 2. c. 18.

[e] Sig. de jud. l. 1. c. 7.

[f] Roſin. ant. l. 7. c. 29.

[g] Alex. Gen. dier. l. 1. c. 25.

[h] P. Ramus in 2. m. de lege Agrar.

pose, namely three out of every Tribe or Ward: so that in all, the number of them amounted unto an hundred and five: but in round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the [i] court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their form of acquittance was thus, [k] *Secundum illum litem do.* Whence [l] *Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere.* The publick cases belonged ordinarily (except the *Consuls*, the Senate, or the people did interpose their authority) unto those whom we called *Prætores Quæsitores.* Some have thought them to be the same with those whom [m] *Rosinus* calleth *Judices Quæstionum*, and that I think not altogether upon unsure grounds: first because most of these publick cases which they termed *Quæstiones*, had their [n] several *Prætors* to enquire them, whence they were called *Quæsitores*, and may in my opinion be called *Judices quæstionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prætor* had an hundred Commissioners under him, so had these *Prætores Quæsitores* certain Judges chosen [o] by the Urban, or forreign *Prætor*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes out of both, sometimes out of the *Senators*, sometimes only out of the order of *Roman* Gentlemen, sometimes out of both, sometimes [p] also out of other orders, according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, [q] were called *Judices selecti*, and were divided into several companies called *Decuriæ.* These Judges were upon any citation from any of the *Prætors*, to give their assistance in the Court upon the day appointed by the *Prætor.* Now the manner how they

[i] Sig. de jud. l. 1. c. 23.
[k] Sig. de jud. l. 1. c. 29.
[l] Cic. pro Q. Roscio.
[m] Rosin. ant. l. 2. c. 18.
[n] Sig. de jud. l. 3. c. 4.
[o] Sig. de jud. l. 3. c. 6.
[p] Sig. ibid.
[q] Sig. de jur. Rom. l. 2. c. 20.

they did proceed in their judgement, followeth in the expoſition of one of the Laws, and therefore I will refer the reader thither. Only let him by the way underſtand, that whereas *Tully* is quoted in every Law, it is not ſo much for the proof of the law, as to ſignifie that he in that place maketh mention thereof. For the proof of the laws I refer the reader to *Roſinus* and *Sigonius*; touching the expoſitions my marginal quotations do prove ſufficient.

CAP. 3.

De legibus religionem ſpectantibus.

Lex Papiria.

L. *Papirius Trib. pleb.* eſtabliſhed a law touching the conſecration or hallowing of places, that it ſhould be unlawful for any to conſecrate either houſes, grounds, altars, or any other things, *Injuſſu plebis*, that is, without the determination of the Roman people in their aſſemblies, called *Comitia Tributa*, which determination was always termed *plebiſcitum*. Cic. pro Domo.

Roſcia lex.

L. Roſcius Otho Trib. pleb. preferred a law, that whereas heretofore the *Roman* Gentlemen did ſtand promiſcuouſly with the commons at their theatral ſhews, now there ſhould be fourteen benches or ſeats built for thoſe *Roman* Gentlemen, which were worth H.S. *quadragies*, that is, about 3125 *l.* of our Engliſh money. As for other Gentlemen, whoſe ſubſtance was under the rate, they had a certain place allotted them by themſelves, with a puniſhment impoſed upon them, if they offered to come into any of thoſe fourteen benches. Cic. Phil. 2. Ib. pro Mur.

Here we muſt note that this character H. S. ſtandeth for a ſilver coyn in *Rome*, called *Seſtertius*, and is by *Roſinus* in this place improperly uſed for *Seſtertium*; for this Character H.S. is by our printers falſe printed, the true character [r] being L. L. S. ſignifying *duas libras* (as the two L. L. do intimate) and *Semiſſem*, which is intimated by the [r] Fr. Mat. in Phil. 2.

the letter S. Where if *libra* doth ſignifie no more than the *Roman* coyn called A. S. then is this opinion touching the characters L. L. S. eaſie to be confirmed. For diverſ Authors [s] rendring a reaſon of the name *Seſtertius*, ſay it was ſo called *quaſi Semi tertius*, that is, ſuch a coyn as containeth *Duos ſolidos aſſes & ſemiſſem*. This *Seſtertius*, was ſuch a common Coyn among the *Romans*, [t] that *Nummus* & *Seſterius* became at length one to be uſed for the other, [u] *Mille hujuſmodi ſeſtertii vel nummi faciunt unum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinque coronas*. According to which rate, *quadraginta ſeſtertia* amounting to 3125. and every particular *ſeſtertius* is according to this rate, in value three half pence farthing *q*.

[s] Ch. Hegendorphius in Verrinam.

[t] P. Nunnius in Verrin. 5.

[u] Ch. Hegendorphius in Verrin. 5. m.

And here we may fitly obſerve the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt, if the numeral or word that denoteth the number be a noun adjective agreeing in caſe, gender and number with the ſubſtantive *ſeſtertius*, then it ſignifieth preciſely ſo many *ſeſtertii*; for example ſake; *Decem ſeſtertii* do ſignifie ſo many times *l. ob. qa. q.* 2. If the numeral being an adjective, and of a different caſe, be joyned with *Seſtertium* in the genitive caſe plural, then doth it note ſo many thouſand *Seſtertii*; for example, *Decem ſeſtertium* ſignifieth ten times 7. l. 16. s. 3. d. Thirdly, if the numeral joyned with *Seſtertium* be an adverb, then it ſignifieth ſo many hundred thouſand *ſeſtertii. ex. gra. Decies ſeſtertium* doth ſignifie ten hundred times 7. l. 16. s. 3. d. Yea the numeral being an adverb, is ſometimes put ſimply by it ſelf, without the addition of any other word to ſignifie in the ſame manner, the genitive caſe *Seſtertium* being underſtood. For the better conceiving hereof, the former examples may be thus ſet down.

Decem

			De nostro	l	s	d	ob	q
Decem sestertii	valent	10. *Sesterti-os.*		0000	10	6	1	3
Decem sestertium		10. *Millia sestertium.*		0078	02	6	0	0
Decies sestertium		10. *Centena Millia sestertium.*		7811	2.10	0	0	0
Decies.								

Clodia lex.

Publius Clodius Trib. Pleb. made a Law, by vertue whereof the Priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddess) should be deprived of his Priesthood, and the Temple built in the honour of this Goddess should be bestowed upon *Brotigarus* of *Gallo-Græcia.* Cic. pro Sext. item de Aruſp. reſpon.

Domitia lex.

Cn. Domitius Ahenobarbus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordain that the lesser part of the people, namely seventeen Tribes should elect whom they thought fit, and afterward he should have his confirmation or admission from the Colledge. Cic. Agrar.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priviledged from their service in all wars, except only in uproars or civil tumults, [x] and these priviledges were termed *Vacationes.* Cic. Phil. 8. & pro Font.

[x] B. Latom. in Phil. 5.

CAP.

CAP. 4.

De civitate & jure civium Rom.

Cic. pro Rab. & sæpe alias.

Forcia lex de civitate.

M. *Forcius Trib. pleb.* established a law, that no Magistrate should beat any *Roman* Citizen with rods.

Lex Sempronia.

Cic. pro Cluentio, & sæpe alias.

C. Sempronius Gracchus Trib. pleb. preferred a Law whereby he disabled the Magistrate from punishing any *Roman* Citizen either with rods or with an ax, that is with death, without the allowance of the people. Secondly, by virtute of this law, if any Magistrate did condemn any *Roman* Citizen *Indicta causa*, he should be liable to the judgment and censure of the people. A third clause to this law was, *Nec quis coiret, conveniret, quo quis judicio publico circumveniretur indicta causa.* He was said to be condemned *causa indicta*, which was condemned before he had spoken for himself. Although [y] *Indicere pro non dicere, sicut invidere pro non videre vix reperiatur, tamen indictum & invisum, pro non dicto & non viso, sæpe reperiuntur.* [z] They were properly said *Coire*, which did work underhand against a man, that he might be condemned; we may translate it in this place to *Conspire.* [a] The verb *Circumvenio* doth commonly signifie as much as *Circumscribo*, to deceive or cheat one [b]: but in this place to oppress one with false judgment procured by bribery or conspiracy.

y P. Ramus in orat. pro Rab.

z F. Sylv. in orat. pro Cluentio.

a J. Camer. in orat. pro Cic. L. Flac.

b F. Sylv. in orat. pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb.

The priviledges of the Roman Citizens became so great, that almost all the inhabitants of the confederate nations would forsake their own dwelling, and use means to become free Denisons in the Roman City; insomuch that the Embassadors of the allies and associates, did grieve much and complain of the loss of their inhabitants: whereupon a law was made by *Papius*, that all forreigners and strange comers should be expelled out

out of the City. To the ſame effect was *Lex Junia*, and alſo *Licinia Mutia de peregrinis*: the firſt being preferred *Mar. Junius Pennus*, the ſecond by *L. Licinius Craſſus*, and *Q. Mutius Scævola.* Cic. offic. l. 3.

Servilia lex de civitate. Cic. pro Balb.

C. Servilius Glaucia preferred a law, *Ut ſi quis Latinus*, if any of the Latine aſſociates could prove an action of bribery againſt a Senator, then ſhould he be made a freeman of the City.

Quis Latinus.] Here we will obſerve with [c] *Sigonius* that the Latine people were not always called *Latini*, *& Italici*: *ſed & ſocii, & Latini ſocii, & ſocii nominis Latini, & ſocii nomenq; Latinum, & ſocii ab nomine Latino, & ſocii ac Latinum dicti ſunt.* [c] Sig. de jur. Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis. Cic. pro Archia.

Sylvanus & Carbo being *Tribuni pleb.* preferred a law, *Ut qui fœderatis civitatibus adſcripti eſſent, ſi tum, cum lex ferebatur, in Italia domicilium habuiſſent, ac ſexagintà diebus apud Prætorem profeſſi eſſent, cives Romani eſſent.*

Adſcripti.] For the right underſtanding hereof we muſt note, that there were [d] two ſorts of Citizens, ſome *cives nati*, that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation or gift; who becauſe they were added unto, and regiſtred with the firſt ſort of Citizens, were thence called *Adſcripti cives.* [d] F. Sylv. in rat. pro lege Mavil.

Profeſſi apud Prætorem.] This verb *profiteri* is ſometimes [e] *Comitiale verbum*, and ſignifieth as much as *profiteri nomen*, that is to render ones name unto a Magiſtrate; and this conſtruction it beareth in this place. [e] P. Ramus. in orat. Cic. Agr. 2.

Lex Cornelia de Municipiis. Cic. pro Dom.

L. Cornelius Sylla preferred a law, that all *Municipal* States ſhould loſe their freedom in the *Roman* City, and alſo their priviledge of having commons in the *Roman* field.

Gellia Cornelia lex.

L. Gellius Publicola, and *Cn. Cornelius Lentulus* being Cic. pro Balb.

Consuls, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the *Roman* Citizens, should ever be accounted free Denisons.

CAP. 5.

De legibus ad Comitia spectantibus.

Ælia lex.

Cic. multis in locis. Q. *Ælius Petus* asked a law in time of his Consulship *ut quoties cum populo ageretur*, that is, as often as any *Roman* Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the firmament, and the Magistrates should have power *obnunciandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

Agoretur cum populo.] Here we may note the difference between these two phrases *Agere cum populo*, and *agere ad populum*; *f* He was said, *Agere ad populum*, whosoever made any Speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said, *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done but upon one of those dayes which they called *Dies Comitiales*.

f Agel. l. 13. c. 14.

g Bersm. de ver. dier. ratione ad fin. Ovid. Fast. Cic in suis orat. sæp.

Fusia lex.

Pub. Furius sive Fusius Philus, being Consul, ordained a law, that upon some certain days, though they were *dies Fasti*, that is, Loet-days, yet no Magistrate should summon an assembly.

Clodia lex.

Cic. pro Sext. *P. Clodius Trib. pl.* abrogated both these former laws, making it unlawful to observe signs and tokens in the heavens, upon those days when the *Roman* people were to be assembled; And secondly, making it lawful to assemble

assemble the people upon any Leet-day whatsoever.

Gabinia lex.

At first, for many years the *Roman* people in their assemblies did suffrage *Viva voce*, at which time many of the inferiour sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinius* asked a law, that the people in all their elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly shewn; whence both this, and all other laws tending to this purpose have been called *Leges tabellaria.* Cic. 3. de leg.

Cassia lex.

After *Gabinius*, *Cassius* also preferred a law, that both the Judges in their judgments, and the people in their assemblies should suffrage by rendring such tablets; [b] but this is to be understood only of these assemblies by Wards called *Comitia Tributa*; wherein they treated of mulcts and merciaments. Cic. in Lælio. [b] Rosin. ant. l. 8. c. 3.

Cælia lex.

Cælius Trib. pl. established a law, that not only in mulcts and merciaments, but also *In perduellionis judicio*, that is, in taintments of treason against any person of State, (namely such as were *sacrosancti*) or against the Common-weal, this *Tabellary* liberty should have place when the people should judge thereof. Cic. 3. de leg.

In perduellionis jud.] [i] This word *perduellis* doth signifie an enemy unto the Senate, a traitor; and hence cometh this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto. [k] *Si crimen quod erat gravissimum inter crimina, nempe imminutæ majestatis: si pœna, quæ erat acerbissima, nempe mortis.* [i] Cœl. Sec. Curio in orat. pro Milone. [k] Sig. de jud. l. 3. c. 3.

Papiria lex.

C. Papirius Carbo Trib. pl. perswaded that not only in their elections, but in the proposal of their laws also, this suffraging by tablets should be used. Cic. de leg 3.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. Pl.* preferred a law, that the Aſſociates of *Latium* ſhould have as great right of ſuffraging as the Roman Citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. pl.* preferred law, that all thoſe, who were *Libertini*, in what Tribe or Ward ſoever, ſhould have the right of ſuffraging.

CAP. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verr. 7. Q. *Claudius Trib. pl.* perſwaded a law, that no Senator or Senators father, ſhould have any ſhip which ſhould contain above three hundred of thoſe meaſures called *Amphora*, deeming that ſufficient for the tranſportation of their Corn from the Roman field. Secondly, by this law the Senators were forbidden the uſe of trading.

Amphora.] *Alexander Neopol.* obſerveth two ſorts of theſe meaſures, namely, *Amphora Italica*, containing two *Urnas*, and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallions and a Pottle. This in probability is underſtood of the *Italian Amphora.*

l Alex. Genealog. l. 2. c. 20.

Tullia lex.

Cic. Phil. 1. When as a cuſtom had grown, that many of the Senators having by ſpecial favour obtained *Liberam legationem*, upon all occaſions would abuſe that their authority, procuring thereby their private gain, and the encreaſe of their own honour, then *M. Tullius Cic.* being Conſul, laboured quite to take away theſe kinds of embaſſages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (not through a mans whole life) taken from him again: yet afterward

ward this authority ſhould never be granted to any, longer than the ſpace of one whole year.

Legatio Libera.] We may obſerve in antient Authors three ſeveral kinds of embaſſages: The one which is a meſſage ſent from the Prince or chief Governour of one Country to another, and that is expreſſed commonly by this one word *Legatio*, without any addition thereunto: ſometimes it is called *Legatio mandata.* The ſecond, which is when one purchaſeth the title of an Embaſſador, thereby the more honourably to perform ſome vow made; whence it was called *Legatio votiva.* The third is the office or title of an Embaſſador, granted upon ſpecial favour unto a Senator, that he might with the greater authority proſecute his private ſuits in law, or gather up his debts in that Province whither he went; this laſt was termed *Legatio Libera.* All three ſorts are briefly touched by [m] *Toxita.*

[m] M. Toxit. in crat. Phil. 1.

CAP. 7.

De Magiſtratibus.

L. *Cornelius Sylla* being *Dictator*, made a law, that all ſuch as would follow him in the Civil War, ſhould be capable of any office or magiſtracy before they came unto their full years. A ſecond part of this law was, that the children of ſuch as were *proſcripti*, ſhould be made uncapable of the *Roman* Magiſtracies. Cic. in Piſon.

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made ſuch as were under age, to be uncapable of the City preferments, and thoſe he accounted under age, who had not attained unto that number of years which he had preſcribed each ſeveral office: [n] and this law was termed *Lex annalis.*

[n] P. Ramus in Agrar. 2.

Proſcripti were ſuch perſons as were baniſhed. For the fuller underſtanding, look Proſcription in the tract of Puniſhments: *Julius Cæſar* did contrary to this law, *Admiſit ad honores & proſcriptorum liberos*, Sueton. *Jul.* 41.

Hircia.

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should be made uncapable of all places of office.

Cornelia lex.

Cic. Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the L. chief Justices not to give sentence alwaies according to equity, yea sometimes to go quite contrary to their own Edict, made a law, that every L. chief Justice should administer justice according to that his first Edict hanged up at the beginning of his office. An addition unto this law was, that the L. chief Justice should not be absent out of the City above ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a law, that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a law, that *L. Cornelius Sylla* should be a perpetual Dictator.

Cornelia lex.

Cic. 3. de leg. *L. Cornelius Sylla* in the time of his Dictatorship, did by vertue of a law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the populacy.

CAP.

CAP. 8.
De legibus.

Cæcilia Didia lex.

Q. *Cæcilius Metellus, & Titus Didius* being Conſuls, forbad that *Una rogatione*, that is, in one and the ſame bill many things ſhould be propoſed unto the people; leſt by that means, the people by granting the whole bill, might grant ſomething which they would not, or in denying the whole bill, might deny ſome particular clauſe, which by it ſelf they would have accepted. Moreover theſe two Conſuls ordained, that before a law ſhould be asked in the aſſemblies, it ſhould be promulged, that is, hanged up to the publick view of the people three Market days. Cic. pro dom. ſua ad pontif.

Junia Lacinia lex de trinundino.

Junius Silanus, and *L. Licinius Murana* being Conſuls eſtabliſhed that law of *Cæcilius* and *Didius*, annexing a more ſevere puniſhment for the breakers thereof. Cic. Phil. 5.

Clodia lex de interceſſione.

P. Clodius Trib. pleb. made a law that the *Trib. pleb.* ſhould have full authority and power to propoſe laws: neither ſhould they be hindred by the *Interceſſion*, that is gain-ſaying of any. Cic. pro Sext.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. pleb.* ordained, that if any preferred a law touching the overſight, the charge or cure of any buſineſs in hand; neither he nor any fellow-officer with him, nor any allied unto him ſhould have this overſight or charge committed to him. Cic. pro dom. ſua ad pon if.

CAP. 9.
De Provinciis.

Sempronia de Provinciis.

C. *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate every year before the election of their Conſuls, ſhould Cic. de prov. conſularibus.

ſhould as it ſeemed beſt to them, appoint out what Provinces the Conſuls now to be elected, ſhould after the expiration of their office go unto; for which Provinces afterward the Conſuls deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times by a decree from the Senate, it was lawful for the Tribunes to hinder the *Roman* aſſemblies, henceforward they ſhould have no authority.

Cornelia de Provinciis.

Cic. ep. 9. ad Lentul. *L. Cornelius Sylla* being Dictator, preferred a law, that whoſoever went into a Province *cum imperio, tamdiu illud imperium retineret, quoad in urbem reverſus eſſet*: whereas in former times his rule and government was to be reſigned at the expiration of a ſet time appointed: yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new Commiſſion. A clauſe added unto this Law was, that after the coming of any new Preſident or Governour into the Province, the old Provincial Preſident ſhould depart within thirty dayes.

Eſſe cum imperio] that is, [p] *Exercitui præeſſe*, [q] *vel habere jus adminiſtrandi, & ſuis auſpiciis gerendi belli.*

[p] Sig. de jure Prov. l. 3. c. 13.
[q] Sig. ejuſd. l. c. 6.

Titia lex de Provinciis.

Cic. pro L. Mur. [r] Melanct. in orat. pro Mur. *Titius* or (as ſome ſay) *Decius* preferred a law, that the Provincal Treaſurers called *Quæſtores*, ſhould caſt lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Oſtia* being the better Province fell upon *Servius Sulpitius*, yet inaſmuch as it fell *Lege Titia*, that is, by caſting lots, he could not therefore challenge any ſuperiority above *L. Murena, ſed utriuſque nomen concedit in Quæſtura*, that is, their fame and renown was equal in their *Queſtorſhip*.

Julia lex de provinciis.

Cic. Phil. 1. *C. Julius Cæſar* eſtabliſhed two laws touching the *Roman* Provinces: one, that no *Prætor* ſhould govern a Province above twelve months; nor *Proconſul* above two years. The ſeveral heads or clauſes of his ſecond law could

could not all be found out, but those which have come to light are these: First, that *Achaia*, *Thessalia*, and all *Gracia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces. (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have hay, and all other necessaries provided them on the way, by those Towns and villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the Roman Treasure-house. (*Cic in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a triumph. (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate, without the allowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage war, or to go into any foreign Countrey. (*Cic. in Pison.*)

Aurum Coron.] *f* There was a custom among the *Romans* in times of victory, to present unto the L. General Coronets of Gold, instead whereof the after-ages presented a certain sum of money, which was thence called *Aurum coronarium.* *f* Lipſ. de Mag. Rom. l. 2. c. 9.

Vatinia de Provinciis.

P. Vatinius Trib. pleb. procured a law that *Julius Cæsar* should have the government of *Gallia Cisalpina*, and *Illyricum* for five years space, without any decree from the Senate, or casting lots. Secondly, that they also should go as Legates, or L. Deputies unto *Cæsar*, without any decree from the Senate, whosoever were nominated in that Law. Thirdly, that *Cæsar* should receive money out of the Common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain town of *Cisalpina Gallia*, called *Novocomum.* Cic. pro Balb.

Clodia de Provinciis.

Cic. pro dom. *P. Clodius* being *Trib. pleb.* procured a law, that the government of *Syria*, *Babylon* and *Perſia*, ſhould be committed to *Gabinius*; the government of *Macedonia*, *Achaia*, *Theſſalia*, *Græcia*, and all *Bœotia*, ſhould be committed unto *Piſo*; and they ſhould receive together with an army, money out of the common Treaſury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another law, that the Iſland *Cyprus* ſhould be made a Province. That *Ptolomæus* the King of *Cyprus* ſitting in his purple, with his Scepter and other his Princely ornaments, *Præconi publico ſubjiceretur, & cum bonis omnibus publicaretur*, that is, ſhould himſelf with all his goods be ſold by a common Cryer. That *M. Cato* being then Treaſurer, *cum jure Prætorio, adjecto etiam Quæſtore*, having by commiſſion the office of a L. chief Juſtice, and another Treaſurer to accompany him, ſhould be ſent into the Iſland *Cyprus*, both to make ſale of the Kings goods and eſtate, and alſo to bring back the money. Laſtly, it was decreed by this law, that thoſe who lived in exilement at *Byzantium*, being condemned for ſome capital crime, ſhould be brought back unto the City under the name of Romans.

Præconi publico ſubjiceretur.] For the better underſtanding of that phraſe, we are to underſtand the manner of port-ſale among the Romans; which we may read in *Sigonius* thus. Thoſe things were rightly ſold in port-ſale, which were publickly ſold *per Præconem ſub haſta*, that is, by the cryer under a ſpear ſticked up for that purpoſe, and ſome Magiſtrate making good the ſale by delivery of the goods. Whence I take, *publico præconi ſubjici*, and *haſtæ ſubjici*, to ſignifie one and the ſelf ſame thing, namely, to be ſet at ſale: and t *Cicero* uſeth almoſt the ſelf ſame phraſe, *bona C. Pompeii, voci acerbiſſimæ ſubjecta præconis.* This kind of ſale was termed *Auctio*; becauſe, as *Sigonius* ſaith in the ſame place, to him the goods

t Cic. Phil. 11.

goods were ſold, *Qui plurimum rem augeret*, that is, which would bid moſt for it: and hence is the ſeller thereof termed *Auctor*, as *u Cic. Id quod à malo auctore emiſſent*, that is, that which they had bought of one which had no authority to ſell: and from this cuſtom of ſetting up a ſpear in this kind of ſale, this word *Haſta* alone is uſed, to ſignifie port-ſale, as *x Haſta Cæſaris*, the ſale of *Cæſars* goods. Thoſe who bought theſe goods, *y Tully* calleth *Sectores*, *z quia ſpem lucri ſui ſectabantur*. In ſuch kind of ſales, a catalogue, or note of the goods to be ſold was hanged up in tables, for the publick view of paſſengers. Whence ſuch goods were termed *ſuſpenſa bona*. And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bonds and ſecurity to anſwer the matter. The phraſe is uſed by *Tully Cic. pro Quintio*. And alſo by *Seneca*, *de benef. lib.* 4. *c.* 12. *Suſpenſis amici bonis libellum dejicio, creditoribus ejus me obligaturus.* It is thus explained by *Turnebus*, *adv. lib.* 12. *c.* 9. If the ſale proceeded on, then ſuch as propoſed to be chapmen ſignified their deſire by holding up their finger: whence *Digitum tollere* ſignifieth the deſire of buying ſuch goods. *Alex. ab Alex. lib.* 4. *cap.* 26.

u Verrin. 7.

x Cic. Phil. 8.
y Cic. in Ver.
z Cic. de jud. l. 2. c. 24.

CAP. 10.

De Legibus Agrariis.

THoſe laws were termed *Leges Agraria*, which did concern the diviſion of the publick, or common fields: and theſe were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made incloſures: or laſtly, bought out of the common Treaſury. a *Vide Sigon.*

a Sig. de Jur. Ital. l. 2. c. 2.

Sempronia lex Agraria.

b *Titus Sempronius Gracchus Trib. pl.* preferred a law which forbad that any of the *Romans* ſhould have to his own part above five hundred acres of the common fields; the one half of which it was lawful for his ſon to en-

b Cic. pro Sext.

joy. If it had ſo hapned, that any ſhould enlarge theſe common fields, three ſurveyers called the *t Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this law provided, that the money of King *Attalus*, who made the people of *Rome* his heir, might be beſtowed upon thoſe Citizens, which had by this law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreover that the Kings lands ſhould be farmed out at a ſet rent by the *Cenſors*, whence an yearly tribute ſhould be paid to the people.

t Sig. de jure Ital. l. 2. c. 2.

Cornelia lex.

Cic. in. Rul. *L. Cornelius Sylla* being Dictator, preferred a law that all the fields of thoſe *Romans* which he had baniſhed ſhould be common. This publication is to be underſtood chiefly of thoſe fields in *Thuſcia*, near unto the City *Volater*, and the City *Feſula*, which grounds *Sylla* divided amongſt his ſouldiers.

CAP. 11.

De frumentariis Legibus.

Sempronia Lex.

Cic. pro Sext. T. *Sempronius Gracchus* being Tribune of the Commons, provided that a certain quantity of Corn ſhould monthly be given unto the poorer ſort at a low price, *Semiſſe & Triente*: that is, about ſixpence farthing a buſhel: Hereupon was there a place appointed in *Rome*, for the keeping of this common Corn, together with certain laws hanged up there, called *leges frumentaria*. This place was called *c Horrea Sempronia*. The quantity of Corn laid up in every City for this purpoſe is by the latter Lawyers termed *Canon*: as *Canon Alexandrinus*, *Canon urbis Romæ*, *&c. vide Stuck. de conviv. lib. 1. cap. 35.*

c Roſin. ant. l. 8. c. 21.

Semiſſe & triente.] It appeareth by the next law that *ſemiſſis* in this place muſt ſignifie the ſame as *ſenis æris* doth there: Whereby we may note, that *ſemiſſis* doth not always ſignifie the half part of the *Roman* coyn called

As,

As, but ſometime it ſignifieth a greater coyn, valuing almoſt our ſix pence.

Clodia lex.

P. Clodius Trib. pl. ordained, that that Corn which heretofore was ſold to the poor *ſenis aeris & trientibus in ſingulos modios*, that is, for ſix pence farthing a buſhel, ſhould hereafter be given *gratis*: the charge and overſight of this dole was committed to *Sext. Claudius.* Cic. pro Sext. in Piſon.

Terentia Caſſia.

M. Terentius and *C. Caſſius* being Conſuls, preferred a law, *Uti altera decuma à provinciis coemerentur, pretio in ſingulos modios* H. S. *trium conſtituto*: *Item ut civitatibus aqualiter imperaretur, pretio in ſingulos modios* H. S. *quatuor conſtituto.* Cic. Verr. 5. & 7.

For the better underſtanding of this law, we muſt note *d* a threefold tithe paid by the Provinces. The firſt was the tenth part of the grain growing in the Province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and thoſe that took this tithe to rent, were called thence *Decumani.* A ſecond ſort of tithes was a certain quantity of corn taken up for the L. Preſident, or chief governour of the Province, to keep his houſe, and that was called *Frumentum æſtimatum*, that is, Corn gathered by way of taxation: for ſo this word *æſtimo* coming from *as* doth ſignifie, *Eſt autem æſtimare ab ære dictum, id quod vulgo dicunt, appreciare & taxare.* The third ſort of tithes, was when the Senate finding ſcarcity of Corn in *Rome*, did enjoyn the Provinces to ſell them a quantity of Corn at a price ſet down by the Senators themſelves, and this Corn ſold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the ſame year a ſecond ſale was enjoyned them, then they called that ſecond pay, *Frumentum imperatum.* In the firſt clauſe of this law by [*altera decuma*] is meant *Frumentum emptum*; in the ſecond clauſe by theſe words [*civitatibus aqualiter imperaretur*] is underſtood *Frumentum imperatum.* *d* Sig. de Jur. prov. l. 1. c. 1. F. Sylv. in orat. pro Cluentio.

Lex

Lex Hieronica.

Cic. Verr. 4. *Hiero* King of *Sicily* obtained a law, wherein was ſet down the quantity of corn, that the *Aratores* or country farmers ſhould pay unto the *Publicani*, that is, thoſe which received the tithes, together with the time of payment, and this price agreed upon.

CAP. 12.

De legibus ſumptuariis ſive cibariis.

IN antient times there was a commendable frugality among the *Romans* in their feaſts, but after-ages grew to immoderate exceſs therein: ſo that whole Goats and Boars, *&c.* were ſet on the table at one time. Such a hog thus dreſſed *Cincius* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horſe; becauſe the belly thereof was ſtuffed with variety of fowl and rabbets, and ſuch like, as the *Trojan* horſe was with armed men. This kind of exceſs *Tiberius Ceſar* laboured to redreſs, by ſerving at his table cold half-eaten diſhes at ſolemn feaſts, uſing this proverb, *b Dimidiatus aper omnia eadem habet quæ totus.* Hence alſo men of ſeverer diſcipline enacted laws termed *Leges ſumptuariæ*, or *Cibariæ*, which preſcribed a moderation, not only for the charges in their greateſt feaſts, that they ſhould not exceed ſuch and ſuch ſums of money, but alſo for the gueſts to be invited, that they ſhould not exceed ſuch a number. The chief of theſe laws were theſe that follow.

a Stuck. de conviv. l. 3. c. 3.

b Suet. Tib. 34.

Lex Orchia.

C. Orchius being Protector of the Commons, by the conſent of the Senate, the third year before *Cato* was *Cenſor*, preferred a law, whereby he only moderated the number of gueſts, without any limitation of the charges or ſuperfluous expence at feaſts.

Lex Fannia.

Twenty two years after *Orchius* his law, *C. Fannius* being Conſul, enacted another for the moderating of expences,

pences, allowing *Non plures denis assibus* to be spent in their ordinary feasts; But upon those more solemn feasts dedicated unto *Saturn*, and from thence called *Saturnalia*; likewise when any publick games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but only one hen, and that not fatted for the purpose.

Non plures denis assibus.] The *Roman* coyn *As* was so *called c quasi as*, because the matter thereof was *brass*; *d* at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war, there were twelve made of every pound: at last by vertue of a law, which *Papirius* enacted, four and twenty were made of a pound; and so they continued; the value always remained the same, *videl.* ob. q. so that to allow but ten of these to a feast, seemeth a matter altogether uncredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; *e* for ten of these were the price of a sheep, and an hundred the price of an ox.

c Varro l. 4. de ling. Lat.
d Plin. l. 35. c. 4.
e A. Gel. 14. c. 2.

Lex Didia.

Eighteen years after *Fannius Didius* ordained that the former sumptuary laws should be of force, not only in *Rome*, but throughout *Italy*; Moreover that not only the feast-maker transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, than made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a law for the price of meats, so that he was thought by cheapness of victuals to increase rather than restrain superfluities at feasts.

Lex

Lex Antia.

Antius Reſtio preferred an uſeful law to moderate expences in feaſting, which notwithſtanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cauſe, *Reſtio* afterward being invited, would never come to any feaſt, becauſe he would not be an eye-witneſs of the contempt of that law which himſelf had cauſed. If any deſire to ſee more laws of this nature, let him read *Stuck. conviv. l. 1. c. 3. Aul. Gel. l. 2. c. 24.* And *Macrob. Saturn. l. 3. cap. 17.*

CAP. 13.

De re militari & bellis.

Gabinia lex.

Cic. pro leg. Manilia.

A. *Gabinius Trib. pl.* preferred a law, that the managing of the war againſt the Pirates ſhould be in ſuch manner committed unto *Pompey* for three years ſpace, that over the whole Sea between *Hercules* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he ſhould have power to command any Kings, L. Preſidents, or whole Corporations to furniſh him with all things neceſſary to that war.

Manilia lex.

Cic. pro leg. Manilia.

C. Manilius Trib. pl. perſwaded a law, that the managing of war againſt *Mithridates* ſhould be committed unto *Cn. Pompeius*: That the whole Province, where *L. Lucullus* ruled, together with his whole army ſhould be reſigned unto him: Moreover that *Bithinia* where *Glabrio* ruled, ſhould be added, together with all thoſe bands and forces which he had upon the Sea againſt the Pirates, and all thoſe Provinces over which the law *Gabinia* did entitle him Governour, as *Phrygia, Licaonia, Galatia, Cappadocia, Cicilia, Colchis ſuperior*, and *Armenia.*

CAP.

CAP. 14.
De Tutelis.

THis word *Tutela* doth ſignifie a wardſhip, guardianſhip, or protection of a childe in his nonage: whereof [f] *Camerarius* obſerveth four ſorts, and we may with *Peditarius* add the fifth. Either the overſeers were appointed by will; or elſe the next of the kin were overſeers; or the Magiſtrate did appoint whom he thought fit: and theſe three ſorts [g] *Omphalius* calleth thus: the firſt *Teſtamentariam*, the ſecond *Legitimam*, the third *Dativam*. The fourth ſort *Camerarius* calleth *Tutelam fiduciariam qua eorum eſt, qui emancipati deſiſſent eſſe agnati.* The fifth [h] *Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of adminiſtration is committed to others, but yet certain chief overſeers were appointed to ſee the will performed, who were called *Tutores honorarii.* [i] Where we muſt note, that the law provided overſeers, not for children under age only, but for women alſo.

f I. Camer. in orat. pro L. Flacco.

g I. Omphal. in orat. pro Cæcinna.

h Pellitarius pro Cæcin.

i Cic. pro Mur.

Emancipati deſiſſent eſſe agnati] By the *Roman* law every ſon was in ſuch ſubjection unto his father, that before he could be releaſed of this ſubjection, and made free, he ſhould by an Imaginary ſale [k] be ſold three times by his natural father to another man, who was called by the lawyers [l] *Pater fiduciarius*, that is, a father in truſt, yea and be bought again by the natural father and ſo manumiſſed by him, and then he became free. The form of this kind of ſale, or alienation, is ſet down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary ſale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this form of ſetting free was termed *Emancipatio.* This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a child thus

k Vid. leg. 12. tabul.

l Sig. de jure Rom. l. 1. c. 10

alienated, by the death of his father, then ſhould not the overſight of this child fall unto the next of the kin, termed *agnati*, but *Quoniam deſiit eſſe agnatus*, that is becauſe he had in a manner loſt his alliance with his kindred, therefore ſhould the overſight of the child belong unto the father in truſt, termed *Pater fiduciarius*, whence the guardianſhip it ſelf was called *Tutela fiduciaria*.

Latoria lex.

Cic. 3. de Offic. This law made by *Latorius*, provided that there ſhould be overſeers appointed for thoſe which were diſtracted, or did prodigally waſte their patrimony. For, as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus eſt*, they did account all prodigals mad men; they meaning no more by that, than we do by our Engliſh proverb, when we ſay of a Spend-thrift, Let him be begg'd for a fool. The reaſon of their adage was, becauſe if any were diſtracted, by the *Roman* law his wardſhip fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

CAP. 15.
De Teſtamentis.

BEfore we deſcend unto the Laws themſelves, we will explain thoſe three divers ſorts of Wills in uſe amongſt the *Romans*; namely, *Teſtamentum calatis comitiis*: which was ſo called, becauſe twice in the year in time of peace the *Roman* people aſſembled themſelves together, to this end and purpoſe, that if any would make his Will, the whole people might bear witneſs thereunto: Theſe aſſemblies were termed *Calata comitia*. Secondly, *Teſtamentum in procinctu*, that is, when a ſouldier in time of war, ready to give battel, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making over his goods and poſſeſſions under

a

a feigned form of ſale, unto a ſecond party, called *Heres fiduciarius & imaginarius*, i. e. an heir in truſt, who ſhould afterward reſign them unto the true and lawful heir: and this imaginary kind of ſale was performed with certain ſolemnities *circa æs & libram*, and alſo the ſale it ſelf was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per nexum*. For the proof of this which hath been delivered, touching the three ſorts of Wills, I will refer the reader to [m]*Sigonius*. [m] Sig. de jur. Rom. l. 1. c. 12. Cic. Ver. 3.

Furia lex.

C. Furius Trib. pleb. made a law, that it ſhould not be lawful for any to give away, in way of legacy unto any, except to the kinſmen of him which manumiſed him, or ſome other certain perſons, *ſupra mille aſſes*, that is, above fifty ſhillings, or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius*.

Voconia lex.

Q. Voconius Saxa Trib. pl. tulit legem, Ne qui cenſus eſſet, virginem neve mulierem ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſve cuiquam legaret, quam ad hæredem, hæredeſve perveniret. Cic. Ver. 3.

Cenſus.] This word *Cenſus* doth ſometimes ſignifie all ſuch as have tendred the juſt valuation of their eſtate unto the Cenſors: and then *Incenſus* is oppoſite unto it, ſignifying ſuch an one as hath not tendred his eſtate or name to be regiſtred by the Cenſors. But in this place *Cenſus* is taken for ſuch a rich man, whoſe eſtate was in the Cenſors book valued at one hundred thouſand *Seſterces* (*Vid. Aſconium in Verrem* 3.)

Supra quadrantem ſuorum bonorum.] That is, no woman ſhould be heir to more than one quarter of ſuch a rich mans goods. For the right conceiving of this we muſt note with [n] *Laromus*, that the whole inheritance (were it never ſo great) was termed *As*, and that was divided into twelve parts, which the Lawyers called *Uncie*. [n] Bart. Lar. in orat. pro Cæcinna.

Duæ uncia dicibantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, sex Semissis, septem Septunx, octo Bessis, novem Dodrans, decem Decunx, undecem Deunx, Totum As, ut dictum est. Again every *Uncia* was divided into six parts, called *Sextula*: *Duæ sextulæ Duellam, tres Semunciam faciunt.* So then according to the Lawyers (as [o] *Alexander* observeth) if there were one heir alone instituted, he was termed *Hæres in Assem totum institutus*: if otherwise there were many co-heirs, then was it according as the Testator did appoint. Some were *ex Deunce hæredes*, that is, heirs to eleven parts of his goods, there being but one part bestowed from him: some were *hæredes ex quadrante*, that is, heirs to one quarter of his goods: others were *hæredes ex semuncia*, that is, they had the four and twentieth part: others were *sextula aspersi*, that is, they had the threescore and twelfth part of the whole *As*, that is of the whole inheritance, be it more or less, &c. Here we must understand that there is great difference between these two phrases, *Institui hæres in totum Assem, & ex toto Asse*; for all those which we nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel semuncia*, or howsoever, yet were they termed *Hæredes ex toto Asse*, that is, they were not *Legatarii*, such as received legacies. Now none can be said *In totum Assem institui*, but he which is the alone and sole heir unto the whole.

[o] Alex. Gen. dier. l. 1. c. 1.

CAP. 16.

De usu-capione.

Atinia lex.

Cic. Ver. 3.

Atinius made a law, that the plea of prescription, or long possession should not avail in things that had been stoln, but the interest which the right owner had in those stoln goods, should remain perpetual. The words of the law are these: *Quod furreptum est, ejus rei aterna auctoritas esset.* Where by [p] *auctoritas* is meant *jus dominii.*

[p] Sig. de jur. Rom. l. 1. c. 11.

dominii. This crime of theft, as likewiſe of uſury, was ſo odious unto the Romans, that whoſever was found guilty thereof, was condemned [q] *Lege quadrupli*, that is to pay four times as much: whence the informers againſt ſuch were termed *Quadruplatores.*

[q] F. Sylv. in Ver. m. 1.

CAP. 17.
De Judicibus, & Judiciis.

Lex accuſatoria.

Tully mentioneth a law termed *lex accuſatoria*, which in truth was no law, neither was there any author thereof: But there was ſuch a received cuſtom amongſt the Romans, that the accuſer ſhould object againſt the party accuſed, not only the preſent crime then queſtioned, but all other ſcapes and faults committed long before, to the bettering of his matter: that at length this accuſatory cuſtom became in manner of a law, and ſo was called *Lex accuſatoria.* Vid. *Franc. Sylv. in orat. pro Mur.*

Cic. pro Mur.

[r] Their cuſtom alſo was to procure others to joyn with them in their accuſations; thoſe [ſ] *Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe unto the accuſation.

[r] Alex. Gen. dier. l. 3. c. 5.
[ſ] Cic. pro Mur.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law whereby he took away the authority of ſitting in judgement from the Senators, and appropriated it to the Roman Gentlemen: *Q. Servilius Capio* being Conſul did afterward prefer another law, whereby the adminiſtration of judgement was divided between the Senators and the Gentlemen.

Curio in orat. pro Scauro.

Rupilia lex.

Rupilia vetabat diebus triginta ſortiri dicam.] Here we muſt note with [t] *Sigonius* that this law was of force only in the Province of *Sicilia*: alſo that it is one thing *ſcribere dicam*, that is, to enter an action: another *ſoritiri dicam*, that is by lots to chuſe the Judges, which was thirty days after.

Cic. in Ver.
[t] Sig. de jur. prov. l. 2. c. 5.

Livia.

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Druſus* ordain, that the Judges ſhould be elected equally out of both Orders, namely, three hundred out of the Senate, and three hundred out of the Gentry.

Plautia lex.

Cic. pro Cornel. *M. Plautius Sylvanus* preferred a law, that the number of Judges ſhould be choſen, not only out of the Roman Senators and Gentlemen, but out of the Populacy alſo, namely, out of every Tribe fifteen Judges.

Aurelia lex.

Cic. in Verr. ſæpe. *L. Aurelius Cotta* being *Prætor* made a law, that the Judges ſhould be choſen out of the Senators, the Gentlemen, and thoſe Martial Treaſurers or Clerks of the Band called *Tribuni ærarii.*

Pompeia lex.

Cic. in Piſon. *Cn. Pompeius Magnus* being Conſul, ordained that the Judges ſhould be elected out of the wealthieſt Centuries, tying the election notwithſtanding to theſe three degrees of people, namely, Senators, Gentlemen, and Martial Treaſurers; alſo he added that the number of Judges to examine cauſes ſhould be ſeventy and five.

Julia lex.

Cic. Phil. 1. *C. Julius Cæſar* ordained, that the election of Judges ſhould be out of the Senators and Gentlemen, only leaving out the Martial Treaſurers; and this *Tully* calleth *legem Judiciariam Cæſaris.*

Antonia lex.

Cic. Phil. 1. & 5. *M. Antonius tulit legem, ut tertia judicum decuria è Centurionibus, Anteſignanis, Alaudis, Manipularibus, fieret.*

Judicum decuria:] When the L. chief Juſtice had taken his oath, he choſe out ſome *ex certis ordinibus, non ex omni populo*, that is, out of ſuch degree and place, as the law required, to ſit in judgement on thoſe caſes which were

were termed *causa publica*; and these Judges he afterward divided into lesser numbers called *Decuria. Vid. Sig. de jur. Rom. l.* 2. *c.* 12.

E Centurionibus.] *Centuriones* were Captains over an hundred footmen.

Antesignanis.] This word *Antesignanus* hath a double acception in the *Roman* Histories. Sometimes *Antesignani* do signifie the third part of the *Roman* Army: for all those souldiers that fought before the banners or ensigns, as they were called *Hastati* in respect of their weapon, so were they called *Antesignani* in respect of their ensigns before which they fought. The second part of the Army, as they were called *Principes* in respect of their prowess and valour, so were they called *Subsignani*, as fighting under the ensigns. The third part, as they were called *Triarii*, because they fought in the third, or rereward, so were they called *Postsignani*, as fighting behind the ensigns. Where we must not think that those which were called *Antesignani* and *Subsignani*, were altogether destitute of ensigns among themselves: (for every Maniple had his ensign) but the Eagle and other chief ensigns were carried by the *Subsignani*, and in respect had to them they had their names. And hence ariseth the second acception of this word, namely, that all those souldiers of every Maniple, which stood in front before their ensign were called *Antesignani*, and those were commonly the best souldiers in the company. See for the several proofs of this, *Lipsi. milit. Rom. l.* 2. *dial.* 3.

Alaudis.] *Jul. Cæsar* pressed a legion of souldiers out of *Gallia Transalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did resemble the head of the Lark, called in French *Alauda. Barthol. Latomus in Phil.* 1.

Manipularibus.] Those Captains which governed a Maniple of Souldiers, were called *Manipulares. Fr. Maturantius in Phil.* 1.

Lex

Lex Cincia de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and P. *Sempronius Fuditanus* being Consuls, preferred a law, that no man should receive a gift or bribe from his Client for pleading his cause. Of this we read in *Plautus*, and he called it *Legem muneralem*: also in *Tully de Senect.*

Cornelia Lex.

Cic. pro Cluentio. *L. Cornelius Sylla* preferred a law, that the chief Judge of the bench called *Judex Quæstionis*, should refer it unto the choice of the defendant, whether he would have judgement passed on him *Clam an Palam*, that is (as *Sylvius* observeth) either by voices or by tables.

Memnonia lex.

Cic. in Ver. This law (made by *Memnius*) provided, that no action should be entred against those who were imployed abroad in business for the Common-wealth. An addition unto this law was: that whosoever should *calumniari*, that is forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with [a] *Fr. Sylvius* observe the difference of these three phrases *Calumniari*, *Prævaricari*, & *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his Client, or answer the objections of his adversary when he is able, is said *Prævaricari*, that is, to play the false Proctor. He which doth desist in his accusation and let his suit fall, is said *Tergiversari*.

Cic. pro Sext. Rosio.

[a] Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

Cic. pro Mur. *In iis rebus quæ mancipi sunt, in periculum judicii præstare debet, qui se nexu obligavit*, that is, if the buyer of any thing in that form of sale called *Nexus*, be troubled in law, the seller thereof must secure him, and save him harmless.

[x] F. Sylv. in orat. pro Mur. *Mancipi sunt*] [x] Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such

uch a form of ſale as followeth. The form was thus: At the leaſt five Witneſſes, all Roman Citizens, and of full age, beſides one called *Libripens* (from holding of a pair of ballances) ſhould be preſent, and the chapman or buyer ſhould come with a certain braſs coyn in his hand, and ſay, (for example ſake, if it were a bondſlave to be ſold) *Hunc ego hominem ex jure Quiritium meum eſſe aio, iſq; mihi emptus eſt hoc ære*, and forthwith ſtriking the ballance with the braſs coyn, he gave it to him that made the ſale. This kind of chaffering was termed *Nexus*, as we may ſuppoſe *à nectendo*, becauſe it did bind the ſeller to make good the ſale: *y* ſometimes it is called *Per æs & libram venditio*, becauſe of the ceremonies uſed in it. *z* Now it is commonly called *Mancipatio*, a *à manus capione*, from taking that which is ſold into ones hands or poſſeſſion: whence the word *Mancipatus*, and *Mancipium* are uſed to ſignifie a bondſlave that is in this manner ſold, though ſometimes *Mancipium* doth ſignifie the ſale it ſelf: whence *Cic.* uſeth this phraſe *Lex Mancipii*, to ſignifie a clauſe or condition put in the ſale. All things ſold after this manner were termed *Res Mancipi*: *b* the word *Mancipi* being a noun undeclinable, as *Frugi, Cordi, Hujuſmodi*, &c. and from this form of ſale, the mortgaging of land for the payment of money may ſeem to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of ſecurity, is ſaid *accipere fiduciam. Cic. orat. pro L. Flacco.* Upon which place ſaith *Lambinus* in his annotations, *Accipere fiduciam, eſt fundum, aut aliam rem ſoli ſeu ut appellant immobilem, ab aliquo mancipare, ſeu accipere ea lege ut cum ille repetat remancipet.* We may conject the reaſon of theſe ballances, why they ſhould be uſed in this kind of bargaining, to be, becauſe in old time they did not bargain by paying coyned mony, which was termed *Æs ſignatum*, but by paying a certain weight of mony; whence ſuch mony was termed *Æs grave*; and hence it is that metaphorically we tranſlate *pendo* and *rependo* to pay and repay.

y Sylv. ibid.

z Melanct. in orat. pro Mur. *a* Camerar. in orat. pro Mur.

b Priſcian. lib. 3. vid. F. Sylv. in orat. pro Mur.

Alex. Gen. dier. l. 1. c. 13.

CAP. 18.

De Majestate.

Lex Varia.

Cic. pro Corn. Q. *Varius Trib. pl.* made a law, that the *Prætores Quæstores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt war against the *Roman* people.

Julia Lex.

Cic. Phil. 1. *C. Jul. Cæsar* ordained, that such as were condemned of treason, or causing uproars in the Common-wealth, should be banished.

CAP. 19.

De Ambitu.

THose laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Sectatores.*

Acilia Calpurnia.

Cic. pro Mur. *M. Acilius Glabrio*, and *C. Calpurnius Piso*, being Consuls, made a law, that such as were convinced of sinister and indirect means used in their canvasses, should be fined at a certain sum of money set on their heads, and they should be made both uncapable of bearing office, and uneligible into a *Senators* place.

Senatus consultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being Consuls, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward, or if any publick prizes were occasioned to be plaid, or any publick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his Law.

Tullia lex.

M. Tullius Cic. made a law, that no man standing for an office should cause any publick prize to be paid, within two years that he either had stood or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means, for the attaining of any office, should suffer ten years exilement. And the Commonality offending in that point, should be punished with an heavier punishment than the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to this answer in the Court of their indirect means, *Si morbum excusaret*, that is, If he did urge his sickness for his not appearance, then should he undergo a penalty. Cic. pro Sext.

Si morbum excusaret.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si judex alterve ex litigatoribus, morbo sontico impediatur, judicii dies dissisus esto.*] *i. e.* If either Judge, Plaintiff or defendant were sick, they should *diffindere diem, id est*, d *proferre & in aliud tempus rejicere*, prorogue the time of judgement. And unless some might think that by *morbus sonticus* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Sonticus*, which hindreth us in the performance of our business. *Sontes enim nocentes dicunt.* d Sig. de Jud. l. 1. c. 28

Licinia de Sodalitiis.

M. Licinius Crassus being Consul, perswaded, *ut in Sodalitiis Judices ab accusatore ex tribubus ederentur.*

Sodalitia.] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodales*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib. 2. c. 30.* Cic. pro Planio.

Judices ab accuſatore ederentur ex tribubus.] We may read of three ſorts of Judges among the *Romans*, or rather of three divers kinds of elections of their Judges. For either they were *Lecti ſortitione*; of which more may be ſeen in one of the laws following; or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiff ſhould chooſe them all, and then were they called *Judices edititii*, or the Plaintiff ſhould chooſe one half, and the defendant the other, and then were they called *Judices alterni.* *Melanct. hon in Cic. pro Muræn.*

CAP. 20.

De pecuniis repetundis.

FIrſt touching the word *Repetundæ*, *Sigonius* ſaith that ſuch mony was termed *Pecuniæ repetundæ quæ poſſent repeti*, which might by the courſe of law be recovered. Namely, ſuch mony as any Magiſtrate, Judge, or publick Officer, did either in the Provinces, or in the City receive as a bribe, from the Allies and Aſſociates, or from the *Roman* Citizens for the adminiſtration of Juſtice, or the execution of any publick duty: and this kind of bribe they termed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam, averſam* (*Cic. in Vrnis.*) But as it ſeemeth very probable theſe laws againſt bribery were firſt occaſioned, for the eaſe and relief of the *Roman* Provinces and Allies, called in Latine *Socii*, who were much abuſed in this kind by the Prov. *Conſuls*, *Prætors* and *Quæſtors*, &c. Whence *Tully* called this law againſt bribery, *Legem Socialem.* Here alſo may we note, that *d Tully* uſeth this phraſe, *Pecuniam occupare*, for *Fœnerari*, to put mony to uſe. *Occupare pecuniam eſt collocare, inquit Nonnius, id eſt, Fœnori dare. Vid. Lambin. annot. in orat. pro L. Flacco.*

d Cic. in orat. pro L. Flacco.

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law, that ſuch as were convicted of bribery, *Præter litis æſtimationem exilium etiam damnato eſſet irrogatum.* *Litis*

Litis æſtimationem.]Here we will conſider the difference of three phraſes, *Litis conteſtatio*, *Litis redemptio*, & *Litis æſtimatio*. *e* The firſt ſignifieth the producing of witneſſes when both ſides ſhall openly in the Court uſe the form of words, *Teſtes eſtote*: which was not done, *antequam ſatiſdationes factæ eſſent*, before Sureties were put in, by the one, that he ſhould *Judicatum ſolvere*, pay that which he was commanded: by the other, that he would *rem ratam habere*, that is, ſtand to the Verdict or Sentence in the Court. The ſecond phraſe ſignifieth a compoſition, or an argument agreed upon by both ſides between themſelves: *f Redimere lites eſt pactionem facere; qui enim paciſcitur, facit ut lis non ſit.* The third is when the party which is caſt in the ſuit is adjudged to pay the mony; or the worth of the goods called in queſtion, together with the coſt and damages in law unto his adverſary. *g Litem æſtimare eſt pecuniam, & qualis fuit, & propter quam condemnatus eſt reus, in ſummam redigere, quæ de bonis ejus redigatur.* *h* And *Æſtimare litem eſt quod vulgo dicitur, Taxare litis expenſas.*

e Sig. de Jur. l. 1. c. 27.

f Orat. pro Q. Roſcio.

g Fr. Sylv. in orat. pro Cluentio.

h l. Triſtin. in orat. pro Rabirio.

Acilia lex.

M. Acilius Glabrio made a law that ſuch as were accuſed of bribery, *Neque ampliari, neque comperendinari poſſent*, that is, they muſt out of hand receive judgement.

For the right underſtanding of theſe two words [*Ampliari & Comperendinari*] we muſt conſider the ancient cuſtoms and ceremonies uſed by the *Romans* in handling their ſuits of law. First there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *poſtulatio*, that is, a requeſt put up unto the *Prætor*, that it might be lawful for the Plaintiff to enter his action againſt the Defendant; whence *Poſtulare aliquem de hoc vel illo crimine*, is to accuſe one of this or that crime. Thirdly, *Nominis delatio*, that is, the Taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is, to Enter an Action againſt one. In the ſecond of theſe Acts, namely,

namely, when requeſt was made by the Plaintiff unto the *Prætor*, that he might Enter his Action againſt the Defendant, then the Plaintiff did *Vadari reum*; that is, demand Sureties or Bail from the defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiff did again, *Promittere vadimonium*, enter bond alſo for his own appearance upon the ſame day, which commonly was the third day following, called properly *Dies perendinus*, and ſometimes *dies tertius* ſimply, as it appeareth by thoſe capital letters. I. D. T. S. P. uſed to be written in their actions: which letters *i Probus* expoundeth thus; *In diem tertium, ſive perendinum.* So that then properly, *Lis vel reus dicitur comperendinari*, when the giving of Sentence is deferred till the third day. Moreover, before the *Prætor* would ſuffer the action to be entred, he would ſwear the Plaintiff, that he did not accuſe the Defendant *calumniandi cauſa*, that is, falſly or maliciouſly, and this kind of ſwearing was termed *Calumniam jurare*, *calumniam dejurare*, and *In litem jurare*. Now if either party were abſent from the Court upon the third day except he were ſick, he was caſt in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adverſary to ſeize upon his goods. Sometimes there were two or three Edicts in manner of Proceſſes or Writs, before the *Edictum peremptorium* could be obtained: ſometimes it was granted at the firſt, and then was it *k* called *unum pro omnibus*. *l* Now if both parties came into the Court and did appear, then were they ſaid *ſe ſtitiſſe*: ſo that this word *ſiſto* among the Lawyers, did ſignifie to ſhew ones ſelf in the Court. Upon the third day the *Prætor* alſo with the whole Bench of Judges did meet, and the *Judex Quæſtionis* (whom *Roſinus* maketh a diſtinct Officer differing from the *Prætor*) did cauſe all the *Select* Judges to pull out certain lots out of an urn or pitcher brought thither for that purpoſe, and thoſe Judges upon whom the lot fell, were to ſit in judgement:

i Sig. de jud. l. 1. c. 27.

k Sig. ejuſd. l. c. 28.

l Sig. ejuſd. l. cap. 21.

ment: This was called *Sortitio Judicum.* Now if either the Plaintiff or Defendant did ſuſpect any of thoſe that they would be partial, then might he except againſt them, and that was called *Judicum rejectio*: Then the *Judex quæſtionis* would in manner aforeſaid chooſe other Judges in their places, and that was called *ſubſortitio.* Which being ended, thoſe Judges which were thus choſen, received every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Abſolution*: whence *Tully* called it *literam ſalutarem*: The other having this letter C written in it, betokening *Condemnation*: The third having theſe two letters N L betokening *Non liquet.* After the receipt of the tables then did the *Prætor mittere vel dimittere judices in conſilium*; that is, ſent them to caſt their tables into the urns, there being three urns or little coffers purpoſely provided; the one for thoſe Judges which were choſen out of the *Senators*, the other for thoſe that were choſen out of the Gentlemen, the third for thoſe that were choſen out of the *Martial* Treaſurers. Now if they did caſt the firſt ſort of tables into the urns, then the *Prætor* pronounced the Defendant abſolved; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum*, that they muſt have longer time to enquire. And this is properly termed *Ampliatio*, a Reprieve, and in ſuch manner is it ſaid, *quod lis vel reus dicitur Ampliari.* The proofs for this manner of proceeding in law may be collected out of *Roſinus lib. ant. 9. c.* 19, 20. & 24. and out of *Sigonius* according to the Marginal quotations. The like cuſtom ſeemeth to have been received among the *Grecians*, who had three letters of their Alphabet anſwerable to thoſe among the *Romans*; Θ was *damnationis ſymbolum*, which occaſioned that of *Perſius.*

Et potis es nigrum vitio præfigere Theta.

T. a token of abſolution, A. of ampliation. *Vid. Eraſm. Adag.* Θ *præfigere.* Some as it appeareth by *Eraſm.* give a reaſon of Θ, becauſe it reſembleth the heart of man wounded

wounded in the midſt with a Dart, others becauſe it is the firſt letter of θάνατος, ſignifying death according to that,

Infœlix multis theta eſt mihi littera fœlix :
Si θάνατον ſcribit, ſcribit & illa θεόν.

Cic. pro Cluentio.

Cornelius Sylla being *Dictator*, ordained a law that the chief Judge called *Judex quæſtionis* with the whole Bench of Judges, ſhould ſit upon life and death on ſuch as had killed a man; on ſuch as had with an evil intent ſet any place on fire: on ſuch as ſhould walk with any weapon either to kill or rob a man; on ſuch as had either made, bought, ſold, or had given any poiſon, thereby to kill a man; or any Magiſtrate, whoſoever ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould give their conſent to the ſuborning of any man to accuſe another falſely, that thereby he being innocent might be oppreſſed and condemned by publick judgement. Moreover *De ejus capite quærito, &c.* that is, Let them ſit upon life and death on that man, which ſhall bear falſe witneſs, that another might be condemned to death; on that Magiſtrate, or chief Judge, which ſhall take a bribe to condemn another to death.

Parricidium.] This word doth properly ſignifie only a murthering of ones parents or kinſfolk, but in *Numa Pompilius* his time, it ſignified as much as *homicidium*, that is any man-ſlaughter whatſoever.

CAP. 21.

Lex 12. *tabularum de vindiciis.*

SI qui in jure manum conſerunt, utrique ſuperſtitibus præſentibus vindiciis ſumunto.

Si qui in jure.] Here we muſt note that the cuſtome among the *Romans* in old time was, that as often as any controverſie did ariſe touching the poſſeſſion of an houſe, a field, or any ſuch like thing, the *Prætor* did go unto the houſe, field, or the thing queſtioned, being accompanied

nied thither with the Plaintiff and the Defendant, together with others whom the law required to be preſent as witneſſes. This place, whatſoever it were, though in the open field, during the time that the *Prætor* ſate there to give judgement, was termed in Latine *Jus*, in Engliſh a *Court*. Where in the preſence of the *Prætor* and the witneſs, the Plaintiff and Defendant did *manum conſerere*, that is, as the *Camerarius* ſuppoſeth, argue and diſpute the caſe *pro* and *con* in a ſolemn form of words preſcribed them by the Law. For this phraſe is borrowed by the Lawyers from the Art Military, where Souldiers are ſaid *manum vel manu conſerere*, when they fight hand to hand, [*utriq; ſuperſtitibus præſentibus*] that is, let both parties in the preſence of witneſſes (ſo *n Feſtus* expoundeth *ſuperſtites*) [*Vindicias ſum unto*] that is, let them take a turf of the ground: for ſo *o Sigonius* expoundeth *Vindiciæ*: though properly (as he obſerveth) it ſignifyeth the poſſeſſion of a thing, rather than the thing poſſeſſed. This Turf being taken up, was carried to the *Prætor*, and judgement was given upon that, as upon the whole. I do preſume that in other caſes, as in taking the poſſeſſion of an houſe, *&c.* ſome other thing in manner of the turf was preſented unto the *Prætor*, upon which, as upon the whole, he gave judgement. In proceſs of time, the *Prætor*, by reaſon of the tumult of other imployments, not finding convenient leiſure to review every particular ground, or houſe called in queſtion, *p* it was ordained contrary to the twelve Tables, that the Plaintiff in ſuch caſes ſhould come into the Court, and challenge the Defendant in this form of words, *Ex jure manu conſertum te voco*, that is, I challenge thee to go out of the Court into the field, to uſe one towards the other that ſolemn form of words which the Law enjoyneth. Then did the Defendant either yield the poſſeſſion of the ground, or elſe did reply, *Unde tu me ex jure manu conſertum vocaſti, inde ibi ego te revoco.* Then did they both, taking witneſſes with them, without the company of the *Prætor*, *inire*

m I. Camerar. pro L. Muræn.

n Roſin. ant. l. 8. c. 29.

o Sig. de jud. l. 1. c. 21. Vindiciam ferre eſt ſententia decretoque rem obtinere: dicebat vindicias judex, ferebat vindicias qui rem obtinebat. Turneb. adv. l. 13. 27.

p A. Gel. noct. Attic. l. 20. c. 10.

inire viam, that is, go into the ground bringing back a Turf thereof, upon the which (as in manner ſhown) the *Prætor* gave judgement at their return.

For the better underſtanding of this that hath been ſpoken in the explanation of this Law, we muſt note, that the action termed *Vindicatio*, was twofold: either the ſuit for the poſſeſſion of a thing, or the ſuit for the Lordſhip, or right owning thereof. The poſſeſſion of any thing was recovered, either by a true and real violence, or by a ſeeming violence: this ſeeming violence was twofold, either it was *manus conſertio*, which was ſhewn immediately before; or *moribus deductio*, that is, a cuſtomary leading the unlawful *poſſeſſor* out of the ground, thereby to enter poſſeſſion. *Vis ſimulata, altera à lege, altera emanavit à moribus*, ſaid *q Sigon.* The firſt of theſe did ariſe from the *Roman* law, the other from a cuſtome among the *Romans*; the firſt of theſe is to be ſeen in *Tully* his Oration *pro Murana*, the other *pro Cæcinna*. To theſe *Sigonius* addeth a third kind of ſeeming violence; which how juſtly he hath termed a violence, I ſhall leave to the indifferent judgement of the impartial Reader. The right of the Lordſhip, or owning any thing, was ſued for in this manner: The Plaintiff did queſtion with the Defendant thus; firſt, *An auctor eſſet?* that is, whether he had not covertly made away the poſſeſſion of the thing thereby to fruſtrate the action? Secondly, *An ſponderet?* that is, whether he would put in a gage of money into the Court, which he would forfeit if he were caſt, which being done the Plaintiff did alſo upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his ſuit. This gage of money was termed *r ſacramentum*; and in this ſenſe, *Tully pro Milone* ſaith, *Injuſtis vindiciis & ſacramentis alienos fundos petunt*, that is, they ſue for other mens grounds with unjuſt actions and gages of money. Thirdly, *An ſatisdaret?* that is, whether he would put in ſurety, that during the trial in law, the ground or houſe called in queſtion ſhould not be impaired? The ſolemn

q De ind. lib. l. 1. c. 21.

Sigon. de Jur. l. 1. c. 21.

ſolemn form of words uſed in the firſt demand, is thus to be ſeen in ſ *Tully*, *quando in jure te conſpicio, poſtulo anne fies auctor?* If the Defendant held his peace, then was he adjudged to pay all coſts and damage; if he profeſſed himſelf the preſent *poſſeſſor*, then did the Plaintiff proceed in manner as he ſhould for the poſſeſſion thereof; if he denied it, then did the *Prætor* ſay unto the Plaintiff, *Quando negat, ſacramento quærito*: Thereupon ſaith the Plaintiff to the Defendant, *Quando negas, te ſacramento quinquagenario provoco: ſpondeſne te ſoluturum quinquaginta aſſes, ſi auctor ſis?* to whom the Defendant replied, *ſpondeo quinquaginta aſſes, ſi auctor ſim: Tu vero ſpondeſne idem, ni ſim?* The Plaintiff anſwered, *Ego quoq; ſpondeo.* Now in this kind of ſtipulation, the Plaintiff was ſaid *ſponſione & ſacramento provocare, ſacramento rogare, quærere, & ſtipulari*, that is, to challenge one to pawn a ſum of money for the trial of a Suit in Law. The Defendant was ſaid, *contendere ex provocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch manner. This money was termed *ſacramentum*, [t] becauſe when it was forfeited, it was beſtowed *in rebus ſacris & divinis*. Touching the laſt interrogatory, I read no ſet form of words, but by the word *ſatisdatio* the intelligent Reader may conject, that it did ſomewhat ſymbolize with our Engliſh cuſtom of putting in Bail. [u] This putting in of Bail was twofold. The one was *ſatisdare judicatum ſolvi*, to bind himſelf to pay what ſhould be adjudged. The ſecond was *ſatisdare rem ratam habere*, to become bound that he would ſtand to the verdict and judgement of the Court. The firſt of theſe Bonds was required to be performed by the Defendant: the ſecond by the Plaintiff's Proctor or Atturney. But if the Action were an Action of Debt, then the Proctors alone became bound; the Plaintiff's Proctor, that he would ſtand to the judgement; the Defendants Proctor, that the debt adjudged ſhould be paid.

ſCic. orat. pro Mur. & pro Cæcin.

[t] Sig. de jud. l. 1. c. 21.

[u] Sig. de Jud. l. 1. c. 27.

LIB. IV.

Rites and Customs observed by the Romans *in their Wars.*

De Militia.

TOuching the Art *Military* used among the *Romans*, it will not be impertinent to consider first how War was proclaimed, and peace established by them; then to march on to the description of their Bands or companies, where we may first observe the Office of their chief Captain, and their subordinate Leaders, together with the several Wards, into which the universal Army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise towards refractorious and disobedient Souldiers: Adding as a *Corollary* or *Period* to our whole discourse, the several rewards, which the L. General with his Souldiers after the performance of certain atchievements received.

CAP.

CAP. 1.

De ritu, quem Romani observarunt vel fœdus ferientes vel bellum inferentes; & de triplici ratione conscribendi Milites.

WE may remember that it hath been already shewn, that both the proclaiming of War and Peace belonged unto a certain order of *Roman* Priests, called *Fœciales*, who by reason of their Office, I Englished *Heraulds at Arms*. The Rites and Ceremonies which they used, when they proclaimed Peace, were as followeth, *viz.* One of those Heraulds having his Commission from the State (after that both sides had agreed upon the Truce and League now to be concluded) took up a stone in his hand using this solemn form of words: *Si recte & sine dolo malo hoc fœdus atq; hoc jusjurandum facio, dii mihi cuncta fœlicia præstent; sin aliter aut ago aut cogito (cæteris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet*, and therewithall he cast the stone out of his hand: which manner of Oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus*, to swear by *Jupiter*, holding a stone in ones hand: [b] Many say that he did cast that stone at an Hog or Porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custom *Virgil* saith,

Et cæsa jungebant fœdera porca.

[a] Polyb. vid. Rosin. antiq. l. 10. c. 2.

[b] Sig. de jure Ita. l. 1. c. 1.

The manner of denouncing War hath been already shewn: the act of service in War was termed *Mereri sub hoc vel illo duce*, that is, to serve in War under this or that Captain; and whatsoever Souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*, and by [c] *Tully*, such a one is said *stipendia*

[c] Orat. prolege Manil.

stipendia confeciſſe. d *Servius* hath obſerved that the *Roman* ſouldiers were preſſed three manner of wayes: *per Sacramentum, Conjurationem & Evocationem.* But e *Lipſius* cenſureth him for the amiſs explanation of the laſt member. Therefore the indifferent Reader ſhall give me leave to borrow the terms from *Servius*, but the explanation of them partly from *Servius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſs, did each ſeverally take their oath not to forſake their Captain or Country; and this oath was called *Sacramentum militare*, the words thereof are rendred by f *Polybius* thus; *Obtemperaturus ſum, & facturus quicquid mandabitur ab imperatoribus, juxta vires*; and thoſe were termed *Milites per ſacramentum.* g This ſort of ſouldiers were upon appointed daies, as it were of publick Muſter, elected and choſen by the military *Tribunes* under the Conſuls; the aſſignment of the day did chiefly belong unto the Conſuls, at which time if any ſouldier withdrew himſelf, and did not appear, he was ſeverly puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlave. Upon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpicion of imminent danger) the chief leaders of the Souldiers did go unto the Capitol, and bring forth two Banners or Flags, the one red, called therefore *Vexillum Roſeum*, unto which the footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the horſemen followed. The reaſon why the horſemens banner was skie-coloured, is rendred thus, becauſe it did moſt reſemble the colour of the Sea, which colour they deemed moſt acceptable to *Neptune*, who was both the God of the Sea, and the firſt Author of Horſes. Now becauſe the ſudden danger would not yield ſo much time that they might ſeverally be ſworn, therefore did they take their oath in common all together; only one chief ſouldier throughout a whole legion took his oath at large, and in expreſs words, the

d Serv. l. 2. & 7. Æneid.
e Lipſ. de. milit. Rom. l. 1. dial. 8.
f Vid. Lipſ. de milit. Rom. l. 1. dia. 6.
g Lipſ. de mil. Rom. l. 1. dial. 4.

the *i* reſt followed in order one by one, ſaying, Κατὰ τὸν αὐτὸν, that is, that he ſwore the ſame as the firſt. If the Tribune diſtruſted his Souldiers fidelity, then would he ſwear them every one ſeverally in terms at large, and thence were they called *Milites per conjurationem*; as likewiſe *Milites ſubitarii*, in reſpect of their ſudden preſs: The third member may alſo be admitted, if we with * *Lipſius* underſtand it in its true ſenſe; namely for thoſe ſouldiers, who by their L. General were added unto the Body of their army, he having authority to call out ſuch other ſouldiers, who for their long ſervice were diſcharged from giving in their names at a muſter: And theſe are generally by all Authors termed *Milites evocati*, and *Lipſius* deemed them all one with thoſe whom *Servius* calleth *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war upon their enemies, then did the L. General ſummon them to prepare themſelves by a ſound of Trumpets: and this was termed *Claſſicum canere*, *à calando*, which ſignifieth to call. Which being done, a Scarlet Banner was hanged out of the L. General his Pavilion, from which Ceremony I think that that common adage did firſt ariſe, *Conferre ſigna & Collatis ſignis pugnare*, to joyn battel. Immediately upon this they did *Garritum tollere*, make a great ſhout or noiſe with their voices, to the greater terror of their enemies; and that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe four ceremonies are to be ſeen more at large in *k Lipſius*. Unto which we may add the fifth, obſerved by *l Fr. Sylvius*; namely, that at the removing of their Camp they did *conclamare vaſa*; give a great ſhout or cry, in token that the ſouldiers ſhould truſs up their bag and baggage: and hence it is that *m Plautus* uſeth this phraſe, *Colligatis vaſis*, to ſignifie as much as *parate* or *expedite*. Now that they might be the readier for the battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe unto them; and a ſouldier thus girt,

i Lipſ. de mil. l. 1. dial.

* Lipſ. de mil. Rom. l. 1. dial. 8.

k Lib. 4. de mil. Rom. dial. 11, & 12.

l In ep. viror. illuſt. l. 4. ep. 1.

m Plaut. in Pſeudulo.

girt, was called *Cinctutus*, that is (saith *n Pighius*) *Cinctutus, o Inde discinctos ignavos, & militiæ minimè aptos putarunt, Præcinctos vero fortes & strenuos.* Hence also is that proverbial speech, *In præcinctu stare*, or *vivere*, to be in a readiness continually:

Non pudet ad morem discinctî vivere Natta? Pers. Sat. 3.

n Pigh. in sua Præf. ad l. 1. septim.

o Alex. Gen. dier. l. 1. c. 20.

CAP. 2.

De Legione, Auxiliis, & Legionis partibus.

THe *Roman* Forces were in old time divided into two several parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such as the neighbour and confederate Countries did send unto the *Romans*. The Legions were taken out of the body of the *Romans*, p *Legio à deligendo dicta est*, from the choice and selecting of souldiers. *q Romulus* is said to have been the first Author of these Legions, making every Legion to contain 3000 footmen, and three hundred horsemen, *r* one thousand footmen, and one hundred horsemen being taken out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand footmen, *s* whence it was called *Quadrata Legio*. And in process of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now *t* none could be ordinarily registred for a souldier until the seventeenth year of his age, *u* at which his first admission he was termed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrocinium* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus*, an old beaten souldier. *x* The *Roman* legion was divided *in pedites & equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes*; *Cohortes*

p Plut. in Romulo.

q Rosin. ant. l. 1 c. 4.

r Sig. de Jur. Rom. l. 1. c. 15.

s Sig. ibid.

t Alex. Gen. dier. l. 1. c. 20.

u Pancir. l. rer. deperd. c. de habit. & vest. veter.

x Sig. de Jur. Rom. l. 1. c. 15.

Cohortes in Manipulos; *Manipuli in Centurias*: *Equites distributi erant in Turmas*, *Turma in Decurias*. The word *Cohors* doth signifie that part of ground, which is commonly incloſed before the gate of an houſe, *y* which from the ſame word we call a *Court*: and *z Varro* giveth this reaſon of the *Metaphor*. As in a Farm-houſe (ſaith he) many out-buildings joyned together make one incloſure, ſo a *Cohors* conſiſteth of ſeveral maniples joyned together in one body. It is manifeſt (ſaith *a Alexan.*) that the *Romans* in antient time did very ſeldom, yea never (except in great neceſſity) inroll into their univerſal army above four legions: and in an ordinary legion, which he termed *Legionem juſtam*, ten *Cohortes*: every *Cohors* containing three maniples, every maniple two Centuries, every Century an hundred ſouldiers, whence they from *Centum* were called *Centuria* a Century. *b* Theſe Centuries were ſometimes divided into leſſer numbers called *Contubernia*; every *Contubernium* containing ten ſouldiers beſides their Captain, *c* which was called *Decanus*, & *Caput contubernii*. Where we muſt obſerve that *Contubrnium* doth ſignifie as well the pavilion, or lodging it ſelf, as the ſouldiers lodging therein, and it may be ſo called *quaſi contabernium*, from *Taberna* ſignifying any ſlight lodging made of boards. Thoſe that ruled over a thouſand footmen we may in Engliſh call *Serjeants major* they, called them *Tribuni militum*. Thoſe that governed over the Centuries were called by them *Centuriones*, by us in Engliſh *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. *d* Their office was to overſee and look unto thoſe of the camp which were ſick, who commonly came behind the army *quaſi extremum agmen*, & *tergum aciei*. The horſemen were divided into ſeveral troops called *Turmæ*; every *Turma* containing thirty horſemen. Again, every *Turma* was ſubdivided into three leſs compaines called *Decuria*; every *Decuria* containing ten horſemen: whence their Captain was called *Decurio*, and

y Edmunds in his obſerv. upon Cæſars Comment. lib. 2. C. 3.

z Varro lib. de re ruſtica.

a Alex. Gen. dier. l. 1.

b Varro vid. Roſin. ant. Rom. l. 10. c. 5.

c Roſin. ibid.

d Veget. vid. Roſin. ant. Rom. l. 10. c. 7.

the Captains over the greater troops, namely over the several wings of their horsemen were called *Equitum Præfecti*. Now the chief Governour over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, *e* who in old time was called *Non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the *Roman* histories hath a threefold acception; first it is taken for him, who by commission from the State hath the managing of an Army, being the same that *Prætor* was in ancient time; and in this sence it hath affinity with the office of our L. General. Secondly, for such a L. General who by his Prowess having put *f* one thousand of his enemies to the sword, was both by his souldiers saluted, and by the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Sovereign Prince, King, or Monarch, in which sence it was the *Prænomen* of all the Roman Emperors, from *Julius Cæsar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age and experience, some being wealthier, elder, and of more experience than others; hence was it requisite also, that there should be a distinction of place in their Armies, according to the desert & worth of each several person. We are therefore likewise to understand *g* that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought a far off, and were lightly armed; but also because they were commonly exposed to their enemies as forlorn hopes. According to *h* *Lipsius*, these *Velites* were commonly placed either *In Fronte*, *Viis*, or *Cornibus*. 1. In the front of the Army. Secondly, in the distances or spaces between the several maniples. 3. *In Cornibus*, that

e Lipſ. de mil. lit. Rom. l. 2. dial. 10.

f Barth. Lotom. in Phil. orat. 14.

g Lipſ. de mil. Rom. l. 1. di. 3.

h Lipſ. de mil. Rom. lib. 4. dial. 3.

that is, in the wings of the battel; not that the wings at any time conſiſted of thoſe *Velites*, for that was the *Socii* & Auxiliary forces; but either the ſpaces in the wings were filled up by thoſe *Velites*, or elſe they might obtain a promiſcuous place amongſt thoſe foreigners. Notwithſtanding they did like ſcouts run to and fro caſting out their darts (as occaſion was offered) and ſo retire: whence when a man doth leap from one thing to another in his talk, we ſay he doth *Agere velitatim*. Having choſen out a competent number of theſe ſcouts, they proceeded to the choice of them which they called *Haſtati*, that is, Pikemen: foraſmuch as they fought with a kind of javelin, which the Romans called *Haſta*. Theſe Pikemen fought in the firſt part, or fore-front of the main army. The third choice which they made was of the ſtrongeſt and higheſt bodied men, who for the prime of their age were called *Principes*: and hence was the ſecond place or ward in the main army called *Principia*, according to *i Thraſo* his ſpeech, *Ego ero poſt i Principia*, that is, I will follow the *Principes*; thereby chuſing to himſelf the beſt and ſafeſt place. The laſt ſort of ſouldiers, which ſtood in the third place or ward, were called *Triarii*. They were of all the moſt approved, and the very laſt help or refuge, ſo that if they failed, all was loſt: and hence ariſeth that form of ſpeech, *Ad Triarios ventum eſt*, *k* whereby we ſignifie that a thing is come to the laſt puſh. As I ſuppoſe, the weapon wherewith theſe *Triarii* fought, was a dart with Iron faſtned at the end of it called in Latine *Pilum*. The reaſons of this my conjecture are theſe, 1. Becauſe the firſt Century of theſe *Triarii* was called *Primum pilum*, and their Centurion *Primopilus*, and *Primipulus*, and *Primus centurio*, becauſe he was the chief Centurion in a whole legion, as having the charge of the chief Banner called the *Eagle*; *l* whence *Aquila* ſometimes uſed to ſignifie *Primopilatum*, the office and place of the *Primopilus*. The ſecond Century was called *Secundum pilum*, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the

i Teren. Eun. Act. 4. Scen. 7.

k Alex. Genial. dier. l. 5. c. 15.

l Lipſ. de mil. Rom. l. 2. dial. 1.

battel immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next should be the *Milites pilanos*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattelling was divers. Sometime they would make a winged army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in english call the *Vant-guard*, and the two lesser companies, we call *Wings*; as likewise in Latine they call them *Alas aciei, & dextrum vel sinistrum eorum*. m *Pancirol.* calleth them *Vexillationes*, because there fought no more in either wing than belonged to one banner called in Latine *vexillum*. The governors of these wings he calls *Alarum præfectos*. Sometimes they embattelled, so that the forefront of the army being small, it was inlarged bigger and bigger backward, in manner of a triangle: By n *Lipsius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum, quia velut fodit, & ruit invadendo*. Commonly it is called, *Cuneus militum*, the *Metaphor* being borrowed not only from the resemblance it had with a wedg, but that also from the use of a wedg: for they never embattelled in that form, unless it was to break through their enemes, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, inlarge their army in the fore-front, making it end in an angle, and o this they called *forfex*, and *forceps militum*. Sometimes their form of embattelling was circular, and then it was called *Orbis vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Velum*. It was also called p *Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* (an handful of hay being used at that time instead of a flag) *Manipulum militum*: *Ovid.*

Pertica suspensos portabat longa maniplos,
Unde maniplaris nomina miles habet.

m Pancir. in notit. orient. & occident. imper. c. 31.

n Lips. de mil. Rom. l. 4. dial. 4.

o Lips. ibid.

p Festus vid. Pancir. in not. orient. & occident. imper. cap. 32.

* Suidas

* *Suidas* is plain, Βάνδον καλοῦσι Ῥωμαῖοι τὸ σημεῖον τὸ ὃν πολέμῳ, that is, the *Romans* called their military ensign a *Band*: hence others have used Βανδοφόρος to signific as much as *Signifer*, an Antient-bearer.

* Suid. in voce βίνδον.

CAP. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the siege of a Town seemed difficult and hard to compass, then did the *Romans* use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampire, fortified with many Castles and fortresses; whereby they both kept the town from any forraign succour, and withall secured themselves from sallies, and other stratagems. This rampire did extend it self towards the walls of the City, so that by making (as it were) a great hill, they might over-top the City, and fight with the greater advantage. Now that this great heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones, & timber whence it was reared, was properly called *Agger*, whence cometh both the latine verb *Exaggerare*, and the English to *Exaggerate*, that is, to amplifie or encrease a matter. The stakes, posts, and trees, which were rammed in about this bulwork, or rampire, to uphold the earth, were sometimes called *q Cervi*, because of their forked and sharp tops, but more properly *r Valli* and *Valla*. The distance or space between each stake, was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully*, *s Intervallo locorum, & temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied, according to that received adage which we use when a special friend forsaketh one, *Vallus vitem decepit*. From the first signification it

q Lips. Pol. l. 2. dial. 2.
r Serv. Æn. l. 10.
s Cic. ep. fam. l. 1. ep. 7.

it is, that *Vallum* doth often signifie the inclosure, or hedging in of trees and stakes, wherewith the bulwark is upheld; alluding whereunto *t A. Gellius* translateth ἕρκος ὀδόντων *Vallum dentium*. The means of their defence, whilest they were making this their rampire, was a certain engine or ordnance of war *u* made of planks and hurdles running upon wheels, under which they might rest secure from all stones and darts cast from the walls of the City: it was called *Vinea*. A second engine was *Musculus*. The matter whereof it was made I have not read, but the use of it was, that under it the souldiers might approach unto the walls of the City, and undermine them. Thus much *x Lipsius* seemeth to infer, when he rendreth the reason of the name: *Musculus ideo dictus, quia instar ejus animalculi foderunt sub eo terram*. A third means of their defence was *Militaris testudo*. This word *testudo* in the art Military, had a double acception, both being borrowed from the resemblance of the Tortoise-shell, which is the true and genuine signification of this word. In the first acception *Testudo y* doth signifie a warlike engine or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers; under this they might safely assail the walls. *z* In the second acception it signified a Target-fence, which was a close holding together of Targets over head like a vault or roof, wherewith the footmen did defend themselves from the thick shot of arrows, or slinging of stones. Their rampire or countermure being finished, they used certain great timber Towers made upon wheels to run to and fro, which they called *Turres ambulatoriæ*, moveable Turrets. These Towers had many stories one over the other, *a* wherein they carried ladders and casting bridges, thereby to scale the walls. The engines hitherto have been defensive, such wherewith the *Romans* defended themselves in their siege: others there were offensive, wherewith they did assail the City; and of those the chief were *Balista sive Catapulta, Scorpius sive Onager, Aries,* &

t A. Gel. noct. Attic. l. 1. 15.

u Rosin. ant. Rom. l. 10.

x Lips. Polycr. l. 1. dial. 9.

y Rosin. ant. R. l. 10. c. 16.

z Stad. in Flo. l. 4. c. 10.

a Rosin. ant. Rom. l. 10. c. 10.

& Mulleoli. The firſt of theſe engines, as it was called *Baliſta* ἀπὸ τῦ βάλλειν, from darting or caſting forth any thing: ſo it was in old time called *Carapulta*, ἀπὸ τῦ πάλλειν which ſignifieth a ſhaft or dart; though it cannot be denied, but that *Pelta* doth alſo ſignifie a kind of ſhield made in the form of an half moon, according to that of *Virg. Æn. l.* 1.

Ducit Amazonidum lunatis agmina peltis,
Pentheſilea furens ———

The form thereof followeth, tranſlated word for word out of *c Marcellinus.* [Between two planks there is ſet in firm and faſt joyned a ſtrong and big Iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lieth forth farther out a four ſquare beam, made hollow with a direct paſſage in the manner of a narrow trough, tied faſt with many cords of ſinews twiſted one within the other, and thereunto are joyned two wooden ſ krews: near unto one of which ſtandeth the cunning Baliſter, and ſubtilly putteth into the hollow paſſage of the beam a wooden ſhaft, with a big head glewed faſt to it. This done on both ſides two luſty young men do bend the engine by turning about certain wheels: When the top of the head is drawn to the uttermoſt end of the cords, the ſhaft being carried forth of the Baliſta, by the inward force thereof, flieth out of ſight.] That the reader may receive the more light in the underſtanding of this obſcure deſcription, I have added the very words of *Marcellinus.* [*Ferrum inter asticulos duos firmum compaginatur & vaſtum, in modum regulæ majoris extentum, cujus ex voluminе teretis, quod in medio ars polita componit, quadratus eminet ſtylus extenſius recto canalis anguſti meatis cavatus, & hoc multiplici chorda nervorum tortilium illigatus, eique cochlea duo lignea conjunguntur aptiſſime, quarum prope unam aſſiſtit artifex contemplabilis, & ſubtiliter adponit in temonis cavamine ſagittam ligneam, ſpiculo majore conglutinatam, hocque facto hinc inde validi juvenes verſant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen venerit.*

c Lipſ. Pol. l. 2. dial. 2.

c Am. Marc. l. 3. c. 3.

rit summum, pertica interna pulsa à balista ex oculis evolat. In respect of its use we may English it a *Cross-bow*: but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two Oken or Elm-beams were hewn out, and somewhat bended, so that they seemed to bunch out in backs; and these in manner of a * saw engine are tied fast together, being bored through with wide holes, through which (by the means of those holes) strong cords are tied, keeping in the whole frame that it start not asunder: * From between those bunches another wooden beam reaching forth overthwart, and in manner of a wain-beam erected up, is tyed with such devices unto certain ropes, that it may be pulled up higher or let down lower at ones pleasure, and at the top thereof certain iron hooks are fastned, from which hooks there hanged down a certain sling either of Iron or Tow; under which erected beam, there lieth a great piece of hair-cloath, full of small chaff, tyed fast with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmish, a round stone being put into the sling, four young men on one side loosing the beams, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engine standing in some high place giving a mighty stroak with a hammer (and as I suppose upon the cord, whereunto the erected beam was fastned with his hook) setteth open the rails that contain the whole work, insomuch that this erected beam being now at liberty with that quick stroak, and hitting against the soft hair-cloath, it hurleth out the stone, that will batter whatsoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is also called *Scorpio*, because when the long beam or pillar is erected, it hath a sharp top, in manner of a sting. The modern time hath imposed upon it the name of *Onager*, that is, a wild Ass, because that wild Asses, when they

* Machinæ Serratoriæ

* Ab hac medietate testium] Here we must note, that this signification of testes is borrowed from the Anatomists, which do call certain eminet parts behind φαλλὸς Testes. Vid. Fuchs. institut. med. l. 1. Sec. 5.

they are coursed by hunters, fling back stones with their heels afar off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek ὄνος, *i. e. Asinus, & ἀγρὸς, rus vel ager.* Now if any ask me, why that sackcloth or ashes was interposed, the reason is rendred by *Marcellinus*, in two lines, which I purposely did not translate in their place, because I would continue the sense without such a long *parenthesis*. The reason is there delivered thus; because the violence and force of the erected Beam recoiling, after it had been by the stroak discharged, was such, that it would shake in pieces the strongest walls, except there were some soft thing interposed, whereby the forcible strength of the recoil might be by degrees slaked. The *Aries*, or Ram, is described also by *Marcellinus* in the same place. [The Ram was a great tree or beam, *like unto a mast of a ship*, having a piece of iron, in manner of a rams head, fastned at the end thereof, wherewith they did demolish and batter down the walls of a City. It was hung unto a beam, which lay across over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls.] The Rams which *Titus* used at the siege of *Hierusalem*, ran upon wheels: which kind of Rams are described by *Josephus*. There be, saith he, other manner of engines, as an iron Ram upon four wheels bound with iron, and fastned with iron nails, to this they make four feet answerable to the bigness of the beam, and every beam hath his several wheel, and when they will batter the wall, certain men first pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpose. The head of this Ram hath no horns, but is blunt, made of the strongest kind of iron, with a wonderful thick neck. They have also of both sides of the Ram a pentice of wood for the safeguard of those that recoil it. *Josephus Ben Gorion de bello Judaico.* In lieu of these Rams another engine was found out, call'd *Helepolis, ab inusitato*

ἅλω, that is, *capio*, and πόλις, that is, *civitas*? The form of it is to be ſeen alſo in *Marcell. ibid.* [There was (ſaith he) a *Teſtudo*, or vaulted frame made, ſtrengthened with very long pieces of timber: it was covered over with Ox-hides, and green wicker hurdles, the upper part or convex ſurface thereof was overlaid with mud, to the end that it might keep off the fall of fire and caſting of weapons. Now there were faſtned in the front of it certain *Cuſpides triſulcæ*, that is iron pikes with three edges, very maſſie, in manner of the thunder-bolts, which Painters, and Poets exhibit unto us: this great engine the Souldiers ruling within with divers wheels and ropes, with main force they thruſt it againſt the walls.] [*Malleoli* (ſaith the ſame *Marcellinus*) were certain darts, faſhioned on this manner; there was an arrow, made of a cane, betwixt the head and the neck whereof was faſtned an iron full of clefts; which arrow, like unto a womans diſtaff, on which linnen is ſpinned, was finely made hollow within the belly, yet open in many places: In the belly it received fire, with fuel to feed upon; and thus being gently diſcharged out of a weak bow (for with an overſtrong ſhooting the fire was extinguiſhed) if it took faſt hold on any place, it burned the ſame; and water being caſt thereon, the fire increaſed, neither was there any means to quench it, but by caſting duſt on it] Now if they could not prevail by theſe engines call'd *Machinæ*, then did they make certain paſſages under ground which they called *Cuniculi*, from *Cuniculus*, ſignifying a cony-berry; inſomuch that theſe two phraſes are oppoſite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch*, *Cæſar non jam cuniculis ſed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence aſſault the common-weal.

d Plutarch. in vit. C. Cæſ.

CAP.

CAP. 4.

De Pœnis in hostes devictos.

Albeit, after the victory, the *Romans* inflicted divers degrees of punishment, according to the malice found in an enemy, yet were they alwaies compassionate, and (as Histories testifie) more exorable than any other Nation. The punishments which we find them to have used towards a conquered Nation are these: Either they punished them by death, or a sold them *sub corona*, or dismissed them *sub jugum*, or merced them in taking away their territories; or made them tributary States. *e* An enemy was said to be sold *sub corona*, when he being plac'd in the market place, a crown was put upon his head in token of such a sale: or therefore certain captives were said to be sold *sub corona*, because at such times they were environed about with souldiers, to keep them together, and this circle of souldiers, as likewise all other companies, is called *Corona*. When they dismissed any *sub jugum* *f* they erected two spears, with a third lying cross, in manner of a gallows; then they caused them being disarmed, and their belt taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten souldiers; in way of remuneration for their faithful service. This transplantation was termed *Coloniæ deductio*, and the place ever after *Romana colonia*, that is, a *Roman* Colony: at which times they chose out every tenth man, *viz.* such as were able, and of best sufficiency, to make and establish a publick council, *g* whom they named *Decuriones*. Whence we may observe, that *Decurio* is not alwayes taken for a Captain over ten horsemen, but sometimes, it is used to signifie an *Alderman*, a chief Burgess in a *Roman* Colony. These Colonies were of two sorts, some called *Colonia Latina*, others *Italica*. The Latine Colonies had *Jus civitatis suffragii, & Magistratus capiendi*

e A. Gel. 7. c. 4.

f Stad. in Flor. l. 1. c. 12

g Sig. de Jur. Ital. l. 4. c. 2.

di, ſi in ſua Colonia magiſtratum geſſiſſent. Italicis autem, Jus civitatis & ſuffragii nullum erat, immunes tamen erant, nec tributum aut ſtipendium pendebant, ut provincia ſolebant. Turneb. adverſ. l. 1. c. 11. Divers times the *Romans* would be content after the conqueſt to grant to their enemies a peaceable injoying of their lands and poſſeſſions, conditionally, that they would yield all faithful allegiance unto the L. Deputy, whoſoever the *Senate* of *Rome* ſhould place over them. The L. Deputy was either ſtiled by the name of a *Proprator*, a *Proconſul* or a *Prafectus*. Thoſe places where the two firſt ſorts of governours did rule, were termed *Provincia*, the other from the governor was termed *Prafectura*. Where we muſt obſerve that this word *Provincia* hath a threefold acception. Firſt, it is taken for a Country, which by the force and power of arms is ſubdued to the *Roman* Empire, and governed by ſome *Roman* Deputy ſent from the *Senate*; and this is the proper and primitive ſignification thereof, it being ſo called, [h] *Quod populus Rom. eam provicit, id eſt, antevicit.* Secondly, it is taken for any region or Country where the L. Gener. or chief Captain over a *Roman* army doth manage war againſt any Nation by commiſſion from the Senate. Laſtly, it ſignifieth any publick function, or adminiſtration of office, yea any private duty, charge, or task, either undertaken or impoſed; according to that of [i] *Terence*, *Provinciam cepiſti durum*, that is, thou haſt undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum vel Stipendium*, and thoſe who paid it were termed *Tributarii ſive Stipendiarii*, and this Tribute was of two ſorts, either ordinary, ſuch as was required from every houſe yearly, even in the time of peace; or extraordinary, ſuch as was levied by a law, or decree of the Senate towards unexpected charges. The uncertain tribute [k] properly called *Vectigal*, was either impoſt-money, ſuch as was collected in haven-towns for the tranſportation of Merchants wares, and that was called from

[h] Pigh. lib. Tyranniſſ.

[i] Terent. in Phor.

[k] Sig. de Jud. Rom. l. c. 16.

Portus,

Portus, Portorium, or from *l Porta Portarium*, and the receivers thereof *Portitores*. The wares after the impost-money had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta, orat. pro Flacco*: or tythe corn, namely the tenth part of their gain; and that was call'd from *Decem, Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid, lib. de Trist.*

Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimoque prior.

The reason of this signification is *m* supposed to be, because in *Arithmetick*, amongst simple numbers the tenth is the greatest: or lastly, that money which was paid by certain herdsmen for pasturing their cattel in the *Roman* fields and forests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bailiff or receiver of this money, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing: here we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdu'd, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *o Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principal takers or framers of these tributes, *Tully* calleth *Mancipes*. The others, which were entred into the same bond as sureties, were termed *Prædes*. Many times the *Romans* did bestow the freedom of their City upon foreign Countries, and the degrees of freedom were proportioned accordingly as the Countries were. Some they honoured with the name of *Roman* Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own Laws and Magistrates.

This

l Stadius in Flor. l. 1. c. 13.

m Fr. Sylv. in vir. illust. ep. 2. lib. 1.

n Sig. de jure Rom. l. c. 4.

o Cic. de Aruſp respons. & alias ſæpe.

This ſtate they called a *Municipal* ſtate, in Latine *Municipium*, becauſe they were *Muneris hujus honorarii participes*. p By *Munus honorarium* in this place, is underſtood nothing but the title of a *Roman* Citizen, whereby they were priviledged to fight in a legion as free Deniſons, not in an Auxiliary band, as the aſſociates. Now the firſt that ever obtained this Municipal ſtate, were the *Cerites*, who for preſerving the holy things of *Rome* in the time of the war againſt the *Gaules*, were rewarded with the freedom of the City, but without power of ſuffraging. q From whence it is that thoſe tables wherein the *Cenſors* inrolled ſuch as were by them deprived of their voices were called *Cerites tabulæ*, *Horace* calleth ſuch a table, *Ceritem ceram*, for the reaſon ſhewn before. But we muſt withall obſerve, that ſome Municipal towns have either by deſert or inſtant ſuit obtained the liberty of ſuffraging alſo, which occaſioneth that received diſtinction, that there was *Municipium ſine ſuffragio*, & *municipium cum ſuffragio*. Other Countries which could not be admitted into the freedom of the City, have obtained, and that not without ſpecial and deſerved reſpects, to be aſſociates and confederates unto the ſtate of *Rome*. The inhabitants of ſuch countries were ſometimes called *Bœcii*, ſometimes *Amici*, ſometimes *Latini nominis ſocii*, &c. The King or Prince of ſuch a country did ſtyle himſelf *Amicus & Socius Senat. & Pop. Rom.* Here we muſt obſerve a difference between *Pactio* and *Fœdus*, both ſignifying a kind of league. That truce which in time of war is concluded upon, and accepted of both ſides for a certain r limited ſpace of time is properly called *Pactio*; we commonly call it *Inducia*, and it differed from *Fœdus*: ſ Firſt becauſe that *Fœdus* is a perpetual truce or league. Secondly becauſe it was neceſſary that one of thoſe Heralds at arms called *Fœciales*, ſhould by a ſolemn proclamation confirm this league called *Fœdus*, neither of which conditions was abſolutely requiſite in their truce termed *Pactio*.

p A. Gel. noct. Attic. l. 16. c. 13

q A. Gel. ib.

r Sig. de jur. Ital. l. 1. c. 1.

ſ Sigon. ib.

CAP.

CAP. 5.

Mulctæ militares, quibus milites Romani ob delicta afficiebantur.

TOuching the punishments that the Roman L. General used towards his own souldiers, when they were faulty, they were commonly proportioned unto the fault committed: sometimes they were easie, of which sort were also those punishments which did only brand the souldiers with disgrace: othertimes they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First, *ignominiosa dimissio*, i.e. a shameful discharging of a souldier, when he is with disgrace removed from the army. Secondly, *Fraudatio stipendii*, i.e. a stopping of their pay: and such souldiers which suffered this kind of mulct, were said to be *ære diruti*, † because *Æs illud dirnebatur in fiscum, non in militis sacculum.* Thirdly, *Censio hastaria*, whereby the souldier was enjoyned to resign and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*, so others for their greater disgrace were forced to resign up their spear. Fourthly, the whole *Cohors* which had lost their banners, were compelled to eat nothing but barly bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his souldiers belt or girdle taken from him, which was no less disgrace among them, than it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them stand bare footed before the L. Gen. his pavilion with long poles of ten foot length in their hands, and sometimes in the sight of the other souldiers to walk up and down with turfs on their necks. In the last of these they seemed to imitate their City discipline, whereby malefactors were injoyn'd to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town, it hath some affinity with our carting of queans here in *England*; in the first we have

† Rosin. ant. l. 10. c. 25.

no

no custom that doth more symbolize, than the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or letting them blood in one of their arms: [t] which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishment were these: 1. *Virgis, vel fuste cædi*, to be beaten with rods; or with staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watch-word was written; or that had forsaken their place, where they were appointed to keep watch; or those who had stolen any thing from out the camp; or born false witness against their fellows, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the [u] Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in [x] *Tully* his phrase, *Fustuarium meretur*. *Polyb.* calleth it, ξυλοκοπίαν. *Vid. Lipsi. de milit. Rom. lib.* 5. *dial.* 18. If a Roman souldier had broken his rank by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, *&c.* Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell, was punished with that kind of cudgelling above spoken of; all the others escaped either

[t] Alex. Genealis. l. 2. c. 13.

[u] Trib. milit.

[x] Cic. orat. Phil. 3.

there without puniſhment, or with very little. The puniſhment it ſelf was termed *Decimatio Legionis*, and the reaſon of this kind of puniſhment is rendred by *y Tully*, *in metus viz. ad omnes, pœna ad paucos pervenirit.* Sometimes ſuch was the clemency of the L. General, that he would puniſh only the twentieth, nay the hundredth man, and then it was called *viceſimatio, vel centeſimatio legionis.*

y Cic. pro. Cluent.

CAP. 6.

De donis militaribus ob rem fortiter geſtam.

CConcerning the rewards which were beſtowed in war, ſome were by the Senate conferred upon the L. General: others were by the L. Gen. conferred upon his ſouldiers. Thoſe honours which the L. General received were three, Firſt *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is, a ſolemn proceſſion continued for many days together, ſometimes more, ſometimes leſs: all which dayes the Roman people did obſerve as holy dayes, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The cuſtom being that after ſome notable victory the ſouldiers having ſaluted their chief Captain (whom I call their L. Gen.) by the name of *Imperator*, then would he ſend letters unto the Senate dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewiſe that they would *Decernere Supplicationes*, that is, appoint ſuch ſolemn ſupplications. Thirdly, they honoured him alſo at his coming home with a triumph: *Triumphus vel major, vel minor erat*, ſaith *Alexander*. The leſſer kind of triumph was properly called *Ovatio z ab ove*, from a ſheep, which in the time of his triumph, was led before him, and afterward ſacrificed by him, as alſo in the greater triumph (called properly *Triumphus*) the L. Gen. ſacrificed a Bull: it differeth from the greater triumph, firſt, in the acclamation; for in the leſſer triumph the ſouldiers following did as it were redouble this letter O, and ſome are of opinion that it was there-

z Salmuth. in Pancir. l. rerum deperd. c. de. triumph.

fore called *Ovatio*. In the greater triumph the *souldiers* followed, crying, *Io triumphe, Io triumphe*: an example whereof may be seen in *a Horace*, where he describeth the triumph of *Bacchus*, the first Author of this greater triumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called Θριαμβος, which by a little change is made *Triumphus*. Secondly, they differed, because in the greater Triumph the L. Gen. did wear a garment of State, called by some *Trabea*, *c* by others *Triumphalis*, *Picta vel Aurata vestis*; likewise a garland of Laurel, riding in a chariot, the *Senators* themselves, with the best of the *Romans*, meeting him, his souldiers with their coronets, their chains, and other rewards, following after: but in the lesser triumph the L. General did wear a plain Purple Gown, without any Gold imbroidering, and a garland of mirtletree *d* commonly going on foot, sometimes permitted to ride on a horse; the Gentlemen and commonalty of *Rome* alone without the *Senators*, did meet him. Moreover, for a prepetual memory of this their triumph, in some publick place certain trophees were erected. *e Trophæum monumentum dixere, nunc marmoreum, modo æneum, cum inscriptione & titulis ævo prepetuo duraturis.* f *Dictum est ἀπὸ τῆς τρόπης, id est, à conversione*, from making the enemies to retire and turn back. Sometimes there were statues, columns, and arches built, in token of triumph. These arches, though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are called *g Fornices*, whence it is that *Tully* calleth *Fabians* triumphal arch *Fabianum fornicem*. If it so hapned, that the *Roman* General himself, personally, did take away any spoils from the chief Captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter Feretrius*; who was so called, because *h* as the *Romans* conceited, without the special assistance of *Jupiter*, *Dux ducem ferire non poterat*; these spoils had the name of *Opima spolia*, that is, Royal spoils. The rewards bestowed

a Ode 2. l. 4.
b Salmuth. in Pancir. l. rerum deperd. cap. de triumph.
c Alex. Gen. dier. l. 6. c. 17.
d Dion. Hal. l. 5.
e Alex. Gen. dier. l. 1. c. 2.
f Serv. Æn. l. 10.
g Fr. Sylv. in orat. Cic. pro Cn. Plancio.
h Alex. Gen. dier. l. 1. c. 14.

ed upon the ſouldiers were divers: either places of offices, as the place of a Centurion, of a *Præfectus*, a *Decurio*, *&c.* or their pay was increaſed, the ſpoils diſtributed amongſt them: or laſtly, they received certain gifts termed *Dona militaria*. In ancient times thoſe ſouldiers which had beſt deſerved, received a certain meaſure of corn, called by them *Adorea*, *i* and hence it is that *Adorea* is now uſed to ſignifie ſuch laud and praiſe as is due unto a ſouldier. But after ages, for the better encouraging of the ſouldiers have found out more honourable rewards, of which *k* theſe were the chiefeſt; *Armilla*, that is, a bracelet for the hand-wriſt; *Torquis*, a chain to wear about their necks; *Phalera*, horſe-trappings, *Haſta pura*, that is, a ſpear, having no iron at the end of it (it is ſometimes called *l Haſta donatica*, and *Haſta graminea*.) Laſtly, *Corona* crowns, of which *Aul. Gel. l.* 5. *c.* 6. obſerveth theſe to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea*: it was ſent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obſidionalis*, which was given by the ſouldiers unto the General when they were freed from a ſiege; it was made of graſs growing in that place where they were beſieged, whence it had the name alſo of *Corona graminea*. Now the reaſon why they made this Crown of graſs growing in the place where they were beſieged, was thereby to yield up their right in that place unto their Captain, for by that ceremony as *m Pliny* obſerveth, they did *Terra & ipſa altrice humo & humatione etiam cedere*. And hence it is, that in races, and the like maſteries, he that was overcome did gather ſome of the graſs of that place, and gave it unto the conqueror, as a token that he did acknowledge himſelf conquered; *n* this is the reaſon of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was beſtowed only upon him which had ſaved a Citizens life, *o* though in proceſs of time it was alſo beſtowed upon the L. Gen. if he ſpared a *Roman* Citizen when he had power to kill him:

i Alex. Gen. dier. l. c. 18.

k Sig. de jur. Rom. c. 15.

l Roſin. ant. l. 10. c. 17.

m Plin. l. 22. c. 4.

n Salmuth in Pancir. l. rerum deperd. c. de coronis.

o Pigh. l. Tyrannif.

him: It was commonly made of Oak; whence it was called *Corona quercea*. And this I take to be the reason why in *Ovids* time the Emperor had always standing before his gates an Oak-tree in the midst of two Laurels, as an Emblem denoting two worthy vertues required in all Emperors and Princes: first, such whereby the enemy might be conquered: secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel Tree,

p Ovid. Met. l. Fab. 9.

p *Postibus Augustis eadem fidissima custos*
Ante fores stabis, mediamq; tuebere quercum.

q Dion. Hal. lib. 10.

Fourthly, *Corona Muralis*. q He only was honoured with this, which did first scale the walls, and enter first into the enemies City: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrensis*, This the L. Gen. bestowed on him which first entred into the enemies tents: it did bear in it the resemblance of a bulwark, or at least of the mound wherewith the bulwark was strengthened: which mound was called in Latine *Vallum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon the Sea: it was pourtrayed with many ship-beaks, called in Latine *Rostra*, whence the crown it self was often called *Corona Rostrata*. That *Roman Hercules Siccius Dentatus* obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war; or when the enemies conquered were of mean rank and place, as Servants, or Pirats; or else if the victory were gotten without bloodshed, or great hazzard, the enemies yielding without resistance. *In quibus impulvereis & incruentis victoriis, aptam esse Veneris frondem crediderunt, quod non Martius, sed quasi Venereus quidam triumphus foret.*

r Pigh. l. Tyrannif.

s A. Gel. noct. Attic. l. 2. c.

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